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THE FISCAL, MARITIME, AND NATIONAL SECURITY FACTORS INFLUENCING THE DEVELOPMENT OF THE MARITIME SECURITY ACT OF 1996 (MSA)

by

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December, 1997

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The Merchant Marine Act of 1936 established the federal government's policy of developing and maintaining a commercial merchant marine capable of carrying a substantial portion of the nation's waterborne commerce and performing as a military auxiliary in time of war. Today the merchant marine continues to serve the nation in commerce and provides sustainment sealift assets and skilled seafaring crews to help meet DOD strategic mobility requirements. To maintain such a fleet, a highly regulated system of subsidy payments was provided to shipowners to offset the higher costs associated with the U.S. registry. Despite the outlay of over $14 billion in aid, the U.S. merchant marine has continually declined both in numbers of ships and the percentage of U.S. trade carried. This study examines the development of the Maritime Security Act of 1996 (MSA), and the policy decision to continue financial assistance in support of maintaining the merchant marine. To analyze the implications of this policy a comprehensive examination of congressional documents and industry publications was conducted. DOD and DON mobility planners can benefit from this study, as the condition of the merchant marine impacts both national security and mobility readiness. The study concluded that the MSA was a compromise reflecting many interests, reducing federal investment in the program and requiring recipients of payments to make available their entire transportation infrastructures to support DOD mobility requirements in times of crisis.

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THE FISCAL, MARITIME, AND NATIONAL SECURITY FACTORS INFLUENCING THE DEVELOPMENT OF THE MARITIME SECURITY ACT OF 1996 (MSA)

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ABSTRACT

The Merchant Marine Act of 1936 established the federal government's policy of developing and maintaining a commercial merchant marine capable of carrying a substantial portion of the nation's waterborne commerce and performing as a military auxiliary in time of war. Today the merchant marine continues to serve the nation in commerce and provides sustainment sealift assets and skilled seafaring crews to help meet DOD strategic mobility requirements. To maintain such a fleet, a highly regulated system of subsidy payments was provided to shipowners to offset the higher costs associated with the U.S. registry. Despite the outlay of over $14 billion in aid, the U.S. merchant marine has continually declined both in numbers of ships and the percentage of U.S. trade carried. This study examines the development of the Maritime Security Act of 1996 (MSA), and the policy decision to continue financial assistance in support of maintaining the merchant marine. To analyze the implications of this policy a comprehensive examination of congressional documents and industry publications was conducted. DOD and DON mobility planners can benefit from this study, as the condition of the merchant marine impacts both national security and mobility readiness. The study concluded that the MSA was a compromise reflecting many interests, reducing federal investment in the program and requiring recipients of payments to make available their entire transportation infrastructures to support DOD mobility requirements in times of crisis.

TABLE OF CONTENTS

I. INTRODUCTION

Since the passage of the Merchant Marine Act of 1936, the U.S. government has maintained an active interest and involvement in merchant marine operations, including the formation of a private fleet manned and trained with efficient citizen personnel. The 1936 law first articulated the rationale for supporting the maritime industry, a policy that has continued to this day. Its premise is to develop and maintain a fleet capable of carrying a substantial portion of the country's imports and exports and delivering supplies to U.S. forces in time of war or national emergency.

To maintain and promote a commercial fleet the Merchant Marine Act provided for government payment of operating and construction subsidies to private shipping lines and shipyards. These subsidies were designed to equal the difference between cost of operating and building merchant ships under the American flag and the much lower costs under foreign flags. Despite the payment of over $14 billion in subsidies since 1936, the U.S. merchant marine has been in a continual state of decline in terms of the number of ships and the amount U.S. trade carried since the end of World War II. With the exception of short lived prosperity during periods of U.S. involvement in armed conflict, the merchant marine has been unable to compete with less costly foreign flagged carriers. The associated higher cost of operating ships under the U.S. registry and with U.S. citizen crews forced many U.S. shipowners to re-flag their ships under less costly registries or leave the shipping business entirely. Today, U.S. companies own more ships registered under foreign flags than they do under the American flag.

As a result of the U.S. merchant marine's continuous decline and the evolution of the shipping industry to the container age, the Department of Defense has steadily acquired its own fleet of militarily useful ships to meet strategic sealift requirements, specifically surge sealift. Surge sealift is one of two elements which comprise the strategic sealift requirement; sustainment sealift is the other. Surge sealift is the initial transportation of troops, equipment, ammunition and supplies to an area in response to war or an emergency contingency. Sustainment sealift is the follow-on movement of materials to support deployed forces. For over 60 years the mission of strategic sealift has been performed by the U.S. merchant marine. Beginning with the end of World War I and through World War II, Vietnam, and Korea, the commercial merchant marine has performed both roles of surge and sustainment sealift in support of the armed forces.

The end of the Cold War and the subsequent withdrawal of troops from overseas produced a need for a standby fleet of surge sealift ships, prepositioned and ready to deploy on a moment's notice. Additionally, DOD maintains a backup fleet of militarily useful ships in the Ready Reserve Force (RRF) to augment its surge sealift requirements. As a result, the role of the merchant marine has diminished to the role of supplying sustainment sealift, and the manpower necessary to crew the ships of DOD's surge sealift fleet. Given the need for the merchant marine to provide sustainment sealift and a ready supply of essential manpower, the requirement to maintain some form of commercial fleet is an issue that receives much interest in government, DOD, and industry.

This issue of maintaining a merchant marine was brought to the fore in recent years as the majority of the last remaining ODS contracts were set to expire at the end of 1997.

Given the forthcoming expiration of subsidies and a growing concern that companies would re-flag some, if not all, of their ships under foreign "flags of convenience," the debate over providing new financial aid to U.S. shipping lines and shipyards was played out in the 103rd and 104th Congresses, culminating in the passage into law the Maritime Security Act of 1996.

In preparing for the 21st century, the Navy has committed itself to the sealift mission, as noted in from *...From the Sea:* "Of particular importance, sealift is an enduring mission for the Navy. Our nation must remain capable of delivering heavy equipment and re-supplying major ground and air combat power forward in crisis. Sealift is the key to force sustainment for joint operations, and we are committed to a strong national sealift capability." [Ref. 1:p. 3] By reviewing the history and debate concerning the MSA, this thesis will provide a comprehensive examination of the issues, trends, and implications of the government's role in maintaining a commercial sealift capability to support both international trade and contingency planning.

A. OBJECTIVE

The objective of this thesis is to summarize the fiscal, maritime, and national security factors that led to the passage of the Maritime Security Act of 1996 (MSA). The events and legislative history leading to the drafting of the MSA and its associated resource requirements and policy implications are explored by examining the various maritime reform bills presented in Congress during this decade. Additionally, the development of the Merchant Marine Act of 1936 is examined to gain a better understanding of the events and concerns behind the federal government's current policy of actively maintaining a merchant marine and the use of subsidies. The thesis will briefly examine the MSA's affects on maintaining and revitalizing

the U.S. flagged merchant marine and providing DOD sealift planners with access to private maritime infrastructure, commercial vessels, and available manpower in times of national emergency. It's purpose is to provide a comprehensive examination of the issues affecting the federal government's decision to continue subsidizing the U.S. flagged merchant marine.

B. THE RESEARCH QUESTIONS

The following research questions are addressed:

1. What were the fiscal, maritime, and national security factors influencing the development of the MSA?

2. Who were the major interest groups involved in shaping the MSA? Who are the opponents to the MSA and government involvement in the commercial maritime industry?

3. What were the factors leading to the development of the Merchant Marine Act of 1936 and the establishment of the highly regulated ODS system? Which elements of the Act are designed to support and assist the merchant marine?

4. What are the disadvantages to registry under the U.S. flag?

5. What are the consequences of MSA's funding requirements and their impact on discretionary spending?

6. How was the MSA authorized and appropriated? Which congressional committees have oversight for the establishment and funding of the MSA?

C. SCOPE, LIMITATIONS AND ASSUMPTIONS

This thesis will examine the background of the Merchant Marine Act of 1936 and the implementation of the Operating Differential Subsidy System. It will examine the executive

decisions affecting the maritime industry in the 1980's providing the framework for Congressional intervention in the 1990's. It then follows the Maritime Security Act of 1996 from its introduction in the 103rd Congress through its passage in 1996, detailing the issues of maritime policy reform and its implications for both economic security and national defense.

The nation's maritime industry comprises many elements and various interest groups, making the issue of policy reform quite complex. Over the course of history, the federal government has attempted to develop one policy that meets the concerns of customer shippers, domestic vessel operators, international vessel operators, subsidized and unsubsidized carriers, shipyards and labor. For the purposes of this thesis, the subject of maritime policy reform will focus on international carriers and vessel operating assistance programs. The views of the various external interests associated with vessel financial assistance programs will be addressed to highlight the complexity of any change to existing maritime policies and how they may affect the entire value chain of industry. Additionally, the structure of the international shipping community is briefly summarized to convey the current operating environment in which U.S. ships operate. The use of commercial sealift for sustaining military operations is addressed as it relates to the U.S. merchant marine, and does not discuss operating agreements with NATO countries and Effective U.S. Controlled (EUSC) ships.

D. METHODOLOGY

The thesis will examine the many factors influencing the development of the MSA. Supporting data for the study was obtained through a comprehensive search of congressional

hearings and reports, Maritime Administration publications, GAO Reports, government publications, books, maritime industry periodicals, legislative periodicals, and newspapers. Interviews were conducted with knowledgeable government and industry officials to gain a better understanding of the issues and concerns affecting the MSA, U.S.-flag merchant marine operations, and the international shipping industry.

E. ORGANIZATION

Chapter II, "Maritime Policy and Subsidy Background," will examine the development of and reasons for the Merchant Marine Act of 1936, and provides the historical background for government involvement in the maritime industry. It also provides background on the policy tools used to assist the merchant marine, with an explanation of the current ODS system, and the need for maritime reform and the national security sealift policy.

Chapter III, "Maritime Subsidy Reform 1980-1992," addresses the decision by the Reagan Administration to reduce government expenditures in support of the U.S. maritime industry and the impact of the Persian Gulf War on Congress and the formulation of a follow-on policy to ODS.

Chapter IV, "The Maritime Security Act of 1996," examines the various maritime reform bills presented in the 103rd and 104th Congresses, and the actions of Congress with respect to each. It then details the passage of the MSA and its various policy elements.

Chapter V, "Analysis of the Maritime Security Act," discusses the fiscal impact and national security benefits of the MSA. The impact of the MSA on industry is examined, with a summary of significant recent events in the industry.

Chapter VI, "Summary and Conclusion," summarizes the evolution of the MSA and

the analysis provided in the previous chapters. Follow-on proposals for the MSA are addressed and areas for further research are offered.

II. MARITIME POLICY AND SUBSIDY BACKGROUND

A. INTRODUCTION

The United States, a nation historically and increasingly dependent on the sea, has long possessed some form of a capable and reliable merchant marine fleet that has served a vital role in both commerce and wartime. As the largest trading nation and owners of the most militarily capable armed forces in the world, the importance of an efficient, reliable and competitive maritime industry and merchant marine has never escaped policy makers of the federal government. The importance of a U.S. merchant marine to both commerce and defense has been long been codified in both public law and national security policy. Yet despite the public policy of fostering and developing a strong merchant marine for these purposes, the U.S. merchant marine has descended to its lowest levels both in terms of the numbers of ships and percentage of U.S. trade carried, as shown by Table I.

Total Active Fleet, Average Deadweight Tonnage, Percentage U.S. Oceanborne Foreign Commerce				
Year	Number of Ships	Average DWT	Percentage of US Trade $ Value	Percentage of US Trade Tonnage
1955	1,072	12,688	33.8	23.6
1960	957	13,945	26.4	11.1
1965	912	15,293	21.4	7.5
1970	764	18,080	20.7	5.6
1975	534	25,556	17.5	5.4
1980	543	34,893	14.4	3.8
1985	401	42, 394	14.9	4.4
1990	367	42,401	15.5	4.0
1995	331	45,773	13.6	3.9
1997	281	45,459	12.2	3.3

Table I. U.S. Flag Merchant Marine 1955-1997. From [Ref. 2:p. 12] and [Ref. 3:p. 46].

At the end of World War II, the United States held the world's largest commercial privately owned merchant marine fleet, as more than half of the world's commercial fleet was registered under the United States flag. This pinnacle of national merchant marine growth and vitality was reflective of the wartime need for the United States to build a merchant fleet able to respond to the heightened sealift requirements of supplying armed forces in both Europe and the pacific, and to keep the sea lanes of commerce flowing freely back to the United States with necessary resources and raw materials to sustain both American industry and European allied economies. Today, more than 50 years since the end of World War II, the United States has remained and even strengthened its lead as the world's largest trading nation; however, at the same time the nation's commercial merchant fleet has decreased to eleventh and fifteenth, respectively, in terms of overall carrying capacity and numbers of ships (Appendix A). [Ref. 3:p. 45]

The decline of the U.S. merchant marine, and those of many industrialized nations, can be in part attributed to the economic changes of the maritime industry over the last fifty years. An industry composed of nation-state fleets supporting economic nationalism and sensitive to international borders, has become global in nature with transnational corporations operating in an inherently border- less business environment. This change in the geo-strategic operating environment reflects the current trend away from government regulation under national laws and the industry's migration towards the less stringent requirements and financially attractive benefits of ship registrations in many third world countries known as Flag of Convenience (FOC) registries. [Refs. 4 and 5]

For example, a vessel operating under the registry of Liberia, the Marshall Islands,

or Vanuatu operates with a minimal to non-existent tax liability and lesser insurance costs, has to comply with less stringent interpretations of international safety standards, and may operate with low cost seamen from countries such as Bangladesh, Pakistan, or the Philippines. Faced with the economic realities of operating under the more costly registry of the United States, many companies have simply folded or switched over to less costly registrations. [Ref. 6:p. 1]

In spite of this trend, U.S. maritime policy over the past 60 years has done little to satisfactorily meet the goal of preserving a merchant fleet and viable maritime base despite a government investment of direct payments to ship owners in excess of $14.0 billion. [Ref. 3:p.80] The trend of flagging out brings with it the possibility of a minimal or non-existent U.S. fleet to conduct foreign commerce, which in turn may cause difficulty in manning the Ready Reserve Fleet with civilian seafarers in times of conflict and a complete reliance on foreign flag and allied shipping for all imports and exports and for the sustainment of future military operations.

It is for these reasons that the plight of the U.S. merchant marine has been an issue of increased concern and debate in the halls of Congress throughout this decade. Faced with the dilemma of a continued decline in merchant ships, and on the eve of expiration of previous legislation, in place since 1936 to financially assist U.S. ships, the Maritime Security Act of 1996 (MSA) was enacted after more than 10 years of formulation and debate. The MSA, the most significant peace of legislation affecting maritime policy in over half a decade, significantly altered the way in which federal assistance would be provided to U.S. shipowners, in hopes of preserving some form of a national merchant fleet that would be

both military useful and economically competitive in the world's maritime economy.

B. DEVELOPMENT OF A MARITIME POLICY

Much of what encompasses our national maritime policy can be traced back to a 60 year old public law, the Merchant Marine Act of 1936, that today still forms the basis of the federal government's role in maritime affairs. The Act was developed during a period in which many of the problems facing a large World War I merchant marine in a state of rapid decline during an extended period of peace, are still the same ones present today. The Merchant Marine Act was influenced by the painful lessons of World War I, in which the United States was ill prepared for the unexpected downfall of world wide shipping, and by the post World War I abuses of federal financial assistance made available to private shipowners of the time.

1. World War I Lessons

Prior to the beginning of World War I, 92 percent of America foreign trade was carried by foreign ships, mainly British (58 percent) and a combination of German and Austrian (15 percent). [Ref. 7:p. 47] This reliance on foreign shipping had been the established commercial norm since the beginning of the United States, as foreign shipping has historically been a less expensive commodity than American shipping. Since the establishment of the first Continental Congress, that fact and its ensuing consequences has never failed to have been recognized by national leaders. As Thomas Jefferson stated,

> As a resource for defense...our navigation (shipping) will admit neither neglect nor forbearance...this can only be done by possessing a respectable body of citizen seamen, and of artisans an establishments in readiness for shipbuilding. [Ref. 8]

The outbreak of World War I forced German and Austrian shippers to cease operations, thereby producing a gap in shipping services that remaining European countries and a minimal U.S. fleet could not fill. The ensuing rise in world wide shipping costs and American vulnerability to disruptions in overseas shipping clearly brought home the point that the United States required its own merchant fleet. In early 1914, proposed legislation to enact a government owned merchant marine to fill the void in shipping and restore the normal functioning of market mechanisms in foreign trade was quickly turned back by anti-government business men who bitterly opposed the use of government funds for a public service. By 1916 leaders in the executive branch felt that the United States could no longer afford to stand by and hope the shipping crisis would eventually recede. Secretary of the Treasury, William G. McAdoo, felt at the very least the Government needed to form a specialized agency to deal with the complex issues of shipping, which up until this time was foreign to many Americans viewing the world from an isolationist perspective. [Ref. 7:p 52]

Facing the prospect of not enough ships to carry on trade in highly profitable Latin American trade routes, coupled with an American interpretation of the Paris Economic Conference of 1916 as an attempt to create an exclusive economic union by the Allies against the United States, U.S. businessmen reluctantly choose to give up anti government principles for the hopes of renewed trade profits with government intervention into shipping. The legislative battle that had begun in 1914 to alleviate the shipping crisis culminated with the establishment of the Shipping Board in 1916, a federal agency that was appropriated money to buy, charter, and construct vessels for U.S.-flag steamship companies. The significance of this legislation was that the United States for the first time had one single authoritative

agency to manage maritime issues, and had endowed it with funds to face the shipping crisis of World War I.

The shipping difficulties of the time were quickly compounded by the United States entry into the war in April, 1917, adding to the crisis the insoluble problem of carrying and supplying U.S. troops overseas. Faced with an even greater shortfall of ships, the U.S. government resorted to reliance on British assets, charting more foreign ships, using seized German ships, and requisitioning all U.S. flag ships for the sole purpose of sustainment military sealift. Even an intensive shipbuilding effort could not compensate quickly enough for the many years of reliance on foreign shipping and maritime neglect. With existing shipyards clogged with Navy orders, the government had to assume the tremendous start-up costs of creating its own yards from scratch.

This tremendous shipbuilding effort was barely getting off the ground when the war came to a quick and unexpected end in November 1918. In two years' time (1916-1918), the Emergency Fleet Corporation, a subsidiary of the Shipping Board, had laid 1,429 keels but had delivered only 470 completed ships. Despite the effective legislative efforts to answer the need for shipping, the embarrassing fact remained that the United States "rode the waves to victory in World War I on British Ships." [Ref. 7:p. 58]

2. Sustainment Of The New Merchant Marine

The end of World War I found the United States government endowed with a vast merchant fleet capable of carrying a substantial share of the country's ocean borne trade. The remaining vessels under construction were completed by the end of 1922, and the government's merchant marine continued to resupply and repatriate U.S. troops overseas

until the end of 1919. By the end of that year normal shipping markets had returned and the U.S. had to decide what to do with its vast government fleet. To dispose of the fleet, the Shipping Board offered its ships for sale, but even at bargain prices it could not rid itself of the vast majority of its ships.

In response to this, and to stimulate growth in private U.S. flagged steamship companies, the Shipping Board began to assign ships to managing operators, a dubious arrangement whereby profits were retained by private individuals while losses where transferred to the government. [Ref. 7:p. 61] There were originally over 200 U.S. operators of ships as companies easily reaped the profits of high freight rates during the beginning of the post war rebuilding of Europe. With a free capital investment in ships and windfall profits easily accessible, many operators new to the business of shipping viewed the operation as a get rich quick scheme and did not plan for future reinvestment or long term operation.

When the shipping market collapsed in the summer of 1920 due to the over tonnage of trade routes, few operators where able to survive. As more and more ships sailed with half or empty loads and the outflow of government funds to offset operator losses continued to mount, the Shipping Board reduced the number of operators to the point that only 25 steamship companies operating 394 vessels remained active at the end of 1923. [Ref. 7:p. 63] Although subsidizing the losses of only 25 companies became more tolerable, the operation continued to be unsuccessful, as losses continued to be transferred to the government.

Again faced with a declining fleet, and fearful of the pre-World War I reliance on foreign shipping, the Shipping Board began to assign specific trade routes to operators who

had bought or received government vessels, as part of the managing operating agreement, to ensure at a minimum continued U.S. presence in specific trade routes. Although many operators were at first reluctant to accept designated routes, their position changed with development of the mail subsidy system in 1928.

By the late 1920's, the Shipping Board had invested vast amounts of public funds into the private companies without in anyway stemming the decline of the fleet. As a new effort to rescue what had already been invested, the government decided to subsidize the remaining operators permanently with "mail contracts," a parliamentary tactic to replace the word subsidy which was opposed by many Democrats of the time. With the passage of the 1928 Merchant Marine Act, the U.S. post office was authorized to award contracts to steamship companies for the carriage of mails. With few fixed rules attached to the legislation, the Shipping Board used the Mail Contract Appropriation as a bottomless slush fund to award maximum payments to all shipping lines.

Review of the contracts by the Black Committee in 1933, a Senate special committee established to investigate ocean mail contracts led by Senator Hugo Black, uncovered abuses in which ships would sail across oceans carrying just a few pounds of mail at immense profit to ship owners. The Black Committee produced a scathing report of an industry described as a "saturnalia of waste, inefficiency, unearned exorbitant salaries, and bonuses." [Ref. 7:pp. 114-116] Instead of building up a merchant marine for the public good, as was intended by the Shipping Board in 1919, generous government payments "subsidy piled upon subsidies," had only enriched a small privileged group of powerful shipowners.

The Black Committee formed the basis of a movement for reform in shipping policy

as part of the larger New Deal policy. However, the recommendations of the Black Committee for a government-owned shipping enterprise generated fears of socialism that had been associated with the Roosevelt administration's New Deal. Even before the Black Committee could deliver its final recommendations, President Roosevelt announced his support for government subsidies to private steamship firms, and worked with the Department of Commerce towards the passage of a new maritime policy. The policy that was delivered to Congress by Roosevelt was felt to be a repetition of private profiteering that had existed in the 1920's.

Congress then added numerous controls, requirements, and safeguards to ensure that abuses of the past could not be repeated. The law that was passed in 1936 declared that the United States government would take official steps to develop the merchant marine for both defense and commercial reasons and would do so with a detailed, complex, rigid policy to ensure the misappropriation or diversion of government funds for private profit would never occur again. Many believe that this policy has never reached its intended goals despite its existence as the nation's official maritime policy since its passage.

C. THE MERCHANT MARINE ACT OF 1936

1. Policy Goals

Since the passage of the Merchant Marine Act of 1936, the United States government has mandated an official public policy of actively supporting and regulating a privately owned and operated merchant marine. This policy had its basis in the harsh lessons learned in World War I and the period following. The words of Title I of the act, Declaration of Policy, state,

> It is necessary for the national defense of and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of its water-borne export commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, © owned and operated under the United States flag by citizens of the United States insofar as may be practicable, (d) composed of the best equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and (e) supplemented by efficient facilities for shipbuilding and ship repair. It is hereby declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine. [Ref. 9:p. 1]

This policy has been validated in World War II, Korea, Vietnam, and most recently during the Persian Gulf Crisis. While the merchant marine has served the nation honorably and effectively in times of armed conflict, enough so to be regarded as the "fourth arm of defense," it has been unable to sustain any collective level of commercial competitiveness. Many of the policy tools put into place by the Merchant Marine Act of 1936 have done little to halt the continuous decline of the merchant fleet despite the up swings of prosperity and increase in ship numbers during times of international conflict.

2. Policy Tools

The key elements to "foster the development and encourage the maintenance" of a U.S. merchant marine over the past half century have been the Operating-Differential Subsidy Program, the Construction-Differential Subsidy Program, the Federal Ship Financing Guarantee Program -- all enacted as part of the Merchant Marine Act, the liberal use of Cargo Preference laws, and the Jones Act, designed to exclude foreign ships from domestic markets.

a. Differential Subsidies

The largest promotional element of the Merchant Marine Act, differential subsidies, was designed to compensate shipowners for the differences between higher U.S. operating costs and those of foreign operators. The Operating Differential Subsidy (ODS) is based on a "scientific subsidy policy" whereby the federal government, after careful determination of exact prices, covered the higher costs private operators encountered on designated trade routes when operating U.S. ships. Up until 1981 the Construction Differential Subsidy (CDS) was distributed for shipbuilding along the same precept, compensating shipowners for the higher costs of ship construction in the United States. The CDS was eliminated as a promotional industry policy in 1981 by the Reagan Administration as a budget cutting mechanism. [Ref. 10:pp. 459-481] Since 1936 the Federal Government has provided differential subsidy outlays in excess of $14.0 billion (Appendix A).

b. Federal Ship Financing Guarantee Program

Title XI of the Merchant Marine Act of 1936, as amended, established the Maritime Guaranteed Loan Program (originally the Federal Ship Financing Guarantee Program). When originally enacted, the program authorized the Federal Government to insure private sector loans or mortgages made to finance the construction and reconstruction of U.S. flagged ships. Amended in 1972, Title XI was redesigned to provide direct government guarantees of the underlying debt obligations, with the Government holding a mortgage on the equipment financed. [Ref. 3:p. 9]

Title XI was further expanded in 1993 with the passage of The National Shipbuilding and Shipyard Conversion Act of 1993, Public Law 103-160, which authorized

the Secretary of Transportation to guarantee obligations issued to finance construction, reconstruction, or reconditioning of eligible export vessels and shipyard modernization and improvement. This act made loan guarantees available to foreign countries who decided to order ships from U.S. shipyards, a change to further stimulate shipbuilding in the United States. With the absence of orders for new ship construction (no commercial ships were constructed in U.S. shipyards from 1985 through 1994) and reductions in new DOD/Navy orders, amendment of Title XI and passage of the Shipbuilding Act were all part of the Clinton administration's National Shipbuilding Initiative program to support the maritime industrial base for national security objectives. Under these programs the U.S. Government insures full payment to the lender of the unpaid principal and interest of the mortgage obligation in the event of default by the owners or shipyard facility. As of September 30, 1996 Title XI guarantees totaled $2.5 billion, covering 1,933 vessels and 116 individual shipowners. There are currently 15 commercial ocean going vessels undergoing construction in the U.S., the most since 1979. Additionally, there has not been a Title XI loan default since 1985. [Ref. 2:p 12]

c. *Cargo Preference Laws*

Cargo preference laws have been used as a tool to ensure a continued supply of designated cargo for U.S. carriers since the beginning of the century. Beginning with the Cargo Preference Act of 1904, all items procured for or owned by U.S. military departments and defense agencies are to be carried exclusively (100 percent) on U.S. flag vessels, when available, at fair and reasonable rates (but not necessarily the prevailing cargo freight rate). Additionally the Cargo Preference Act of 1954 (P.L. 83-664), as amended, mandates that

at least 50 percent of the gross tonnage of all Government-generated cargo be transported on privately owned, U.S. flag commercial vessels. In 1985, an amendment to the Merchant Marine Act of 1936 required that the percentage of certain agricultural cargoes required to be carried on U.S. ships be increase from 50 to 75 percent. Cargo Preference Laws accounted for $298 million in U.S. flag revenue in 1995. [Ref. 3:p. 60]

d. Jones Act Legislation

The 1920 Merchant Marine Act provides that cargo transported entirely or partly by water between U.S. ports, either directly or via a foreign point, must travel in U.S. built, U.S. citizen owned vessels that are documented by the U.S. Coast Guard for such carriage. This Act, more widely recognized as the Jones Act after its sponsor, Senator Wesley L. Jones, Washington, has proved to be an essential element in preserving the domestic maritime element and thus eliminating foreign competition from domestic markets.

This legislation has come under considerable scrutiny in past years from consumer interest groups. They argue that the law eliminates competition, reduces service, and adds to high transportation costs by disallowing less costly foreign transportation into the nation's inland water ways and coastal trades. However, the reservation of a nation's coastwise trade exclusively for that nation's own vessels, known as cabotage, is common practice among most maritime nations and has been an integral part of U.S. maritime law and policy since the first Congress in 1789. [Ref. 3:pp. 34-35]

Today 40 industrialized nations have laws similar to the Jones Act, including most of our major trading partners -- Japan, Canada, Germany, Greece, Italy, Portugal, and Spain. [Ref. 6:p. 1] Proponents of the Jones Act argue that it serves a vital economic security

interest by ensuring the uninterrupted flow of vital commodities necessary to avoid disruption to our Nation's economy and industrial base during an emergency. As the Jones Act limits foreign competitors, Jones Act vessels are not eligible for ODS payments or MSA participation.

D. THE OPERATIONAL DIFFERENTIAL SUBSIDY (ODS) SYSTEM

The ODS system has been the single most important, and highly contested, program in recognizing and offsetting the higher costs that are associated with sailing ships under the U.S. flag. In addition to cargo preference laws and the Jones Act, it is also the key element to sustaining a merchant fleet. The details of the ODS system are found in Title VI of the Merchant Marine Act of 1936, as amended and rewritten by the 1970 Merchant Marine Act. However the principles and essential elements as originally drafted in 1936 have remained intact.

1. Eligibility and Requirements

Any American citizen operator is eligible to apply for an ODS contract so long as the operation of the vessel to be subsidized is deemed to be in an essential service required to meet foreign flag competition and promote the foreign commerce of the United States. The vessel to which the subsidy is applied must have been constructed in the United States, and be engaged in international trade. Vessels engaged in coastwise or intercoastal trade are excluded from ODS participation. The ODS contract between the Government and the shipowner may be signed for a period as long as twenty years. Before the contract can be approved, the Maritime Subsidy Board is required to conduct an investigation to determine if there is a necessity for this form of financial assistance to meet the competition of foreign

-flag vessels in the essential service the applicant has applied for. ODS contracts require that the operator maintain a designated frequency of sailings with a particular type of ship, and that the ship only be operated in the trade route to which it was assigned. Additionally, the recipient of an ODS contract is prohibited from operating foreign registered ships and all vessels under subsidy must be less than 25 years old, unless the Secretary of Transportation finds it in the public interest to waive either of these rules. [Ref. 10:p 468]

2. ODS Payment Determination

Financial compensation under the ODS program is to equal the percentage by which the fair and reasonable cost to an American Shipowner operating a U.S. registered ship with a U.S. crew exceeds the estimated fair and reasonable costs to a foreign shipowner operating the same ship with a foreign crew. The Maritime Subsidy Board (MSB) is charged with the responsibility to award, amend, and terminate ODS contracts. The MSB holds public hearings, conducts fact-finding investigations and compiles cost data to perform its functions.

3. Capital Construction Fund Incentives

Many of the stringent regulations placed on ODS recipients, as enacted in the Merchant Marine Act of 1936, were designed to eliminate the abuses of previous government subsidies experienced in the 1920's. An additional program attached to the ODS system to ensure that Operators would not abuse subsidies for short term profit was the Capital Construction Fund (CCF). With the establishment of the CCF, Congress directed that operators receiving subsidy payments must provide for the acquisition of replacement vessels and additional ships to keep their services competitive with those of foreign operators. The

incentive to set up and maintain a CCF, which would be used by a ship owner to finance new construction, is that all deposits made by a ship owner to his CCF would not be taxed as a part of corporate profits. Additionally, if the deposits are used to construct vessels in U.S. shipyards the tax liability accrued would be waived. [Ref. 10:p. 479] The financial attractiveness of this program was eliminated by changes to the tax code associated with the Tax Reform Act of 1986 which established an alternative minimum taxable (AMT) income which included money contributed to the CCF. [Ref. 11:p. 162]

4. The Role of Organized Labor

Seafaring labor unions have played an increasingly significant role as the primary champion of subsidy programs. For many shipowners the amount of money received from ODS payments under the stringent requirements of the program often does not justify the vast amounts of congressional lobbying for adequate appropriations in the federal budget, the lengthy ODS application process, and the numerous restrictions to vessel operations. Since the end of World War II, organized labor has taken the lead in securing government approval for subsidies. In a sense, the official funds of ODS have become labor's salaries. The original goal of ODS and the Merchant Marine Act to foster and develop the industry has migrated to keeping the labor industry intact with generous wage scales that could be increased as long as subsidies were not capped.

Today total crew costs make up the largest part of the U.S. foreign operating cost differential. [Ref. 12:p. 54] U.S. Laws and manning regulations (supported by labor) and the U.S. standard of living are the contributing factors to this differential. The U.S. standard of living alone asserts the largest influence on the wages of U.S. seamen. Additionally, foreign

seamen are often exempt from income taxes and most foreign shipping companies are not required to contribute to national health insurance plans. Tables II and III contain the most recent wage and manning comparisons of U.S. to foreign flagged ships.

Flag (Crew Nationality)	Master Employee Wages	3rd Mate Employee Wages	Unlicensed Employee Wages
United States	$11,359 (U.S.)	$7, 142 (U.S.)	$3,938 (U.S.)
Norway	$5, 836 (Norwegian)	$1, 447 (Filipino)	$919 (Filipino)
Liberia	$7,109 (H.K. Chinese)	$3,417 (H.K.Chinese)	$1,504(HKChinese)
Greece	$3,083 (Greek)	$2,102 (Greek)	$1,727 (Greek)
Germany	$6, 509 (German)	$3,617 (German)	$2,945 (German)
Taiwan	$5,696 (Taiwanese)	$3,097 (Taiwanese)	$2,384 (Taiwanese)
Japan	$9, 372 (Japanese)	$6,111 (Japanese)	$6,754 (Japanese)

Employee wages=base wages (BW) plus overtime (OT). Note: Overtime is variable. These estimates are based on OT of: Master 20% BW, 3rd Mate 100% BW, Unlicensed 100% BW.

Table II. Maritime Wage Comparisons. [Ref.12:p. 61]

Flag	Modern Container Vessel[1] Manning	Older Container Vessel[2] Manning
United States	21	35
Denmark	17	21
Germany	18	21
Greece	21	24
Japan	14	17
Liberia (Hong Kong)	18	24
Singapore	21	25
Taiwan	14	17

1. Modern container vessel denotes a carrying capacity of 4000 twenty foot containers (TEU's), diesel powered, and built during the 1980's.

2. Older container vessel denotes 1900 TEU capacity, steam powered, built during early 1970's.

Table III. Manning Comparisons of Merchant Ships. [Ref. 12:p 61]

E. REQUIREMENT FOR MARITIME POLICY REFORM

The ODS program, government preference cargos, and periods of exponential growth and business during times of conflict have made substantial profits possible for shipowners over the past 50 years. However, since the end of World War I peaceful periods between wars have always proven to be the downfall of the American merchant marine. At the end of 1997 the last contracts signed under the ODS system were set to expire without an executive, congressional, or industry initiative to renew them under their existing terms. The ODS system in place since 1936 has come under attack on all fronts as an inefficient, highly regulated, and overly restrictive mechanism that has not sustained the merchant marine, but has instead strangled its growth. Many law makers cited the expenditure of $14 billion in funds over 60 years as corporate welfare that had done little to stop the decline of the fleet, but rather had again made shipowners wealthy, much like the 1920's all over again.

Shipowners argued that the current ODS system was overly restrictive and failed to provide the proper incentives or mechanisms to compete with the liberal maritime policies of many foreign registries. Additionally, they argued it was labor that had reaped the benefits of years of subsidies that had compensated for higher salaries of U.S. seamen. Labor and the American seaman had the most pressing concern to continue some form of the ODS system. At stake were thousands of jobs that would soon be lost if the fleet continued to decline in the absence of new maritime policy reform and financial assistance Lastly, the user of services -- the customer, led by a strong agricultural coalition, argued that the use of subsidies and cargo preference laws to keep American ship owners in business only raised

their operating fees in paying for transportation in both domestic as well as international trade. With readily available and much less expensive water transportation available from foreign operators, the idea of keeping a high priced, uncompetitive industry afloat with public funds was wasteful and has proved inefficient over the past 60 years. However despite the views of the many constituencies that voiced a concern over the decision to replace the ODS system with a new maritime reform policy, the underlying concern of Congress was the link between the merchant marine and national defense and its overall impact on sealift readiness.

F. NATIONAL SECURITY SEALIFT POLICY

The importance for national security of continuing a maritime policy of fostering and sustaining a civilian merchant marine was further emphasized in 1989 by the National Security Sealift Policy, which stated,

> The United States' national sealift objective is to ensure that sufficient military and civilian maritime resources will be available to meet defense deployment, and essential economic requirements in support of our national security policy. [Ref. 13]

In addition to the Department of Defense's (DOD) sealift ships and Ready Reserve Fleet, U.S. flag merchant ships provide the final element of the defense sealift triad and are charged primarily with sustainment sealift during extended periods of conflict. What may be most important to the sealift equation is the role of the civilian mariner, as all national sealift assets are crewed by citizen seafarers. As the number of ships in the commercial fleet decline so does the number of civilian mariners, while the reliance on foreign flag shipping for all imports and exports and possible military sustainment increases.

Concerned that the continued decline of the U.S. merchant marine would have a

negative impact on defense readiness, Congress ordered the DOD to conduct an analysis of sealift requirements in 1981. The results of the analysis indicated that the decline of the U.S. fleet, coupled with the industry's movement into the container age, had severely limited the number of militarily useful ships that could be called upon by defense planners in times of crisis. Since then the DOD has accumulated a vast inventory of its own sealift assets to meet its strategic needs for sealift. However, if ever fully activated, the DOD fleet would draw its manpower pool from the civilian fleet, and still rely on the U.S. private fleet for sustainment operations.

In addition to the DOD analysis of sealift requirements, the Commission on Merchant Marine and Defense was established in 1984 to study problems relating to transportation of cargo and personnel in time of national emergency and the capability of the United States merchant marine to meet the need for such transportation. The Final Report of the Commission on Merchant Marine and Defense in January 1989 was followed by congressional hearings to review and amend the National Security Sealift Policy.

In 1991, results of the DOD's Mobility Requirements Study led to the establishment of the National Defense Sealift Fund as a necessary vehicle to acquire and maintain a military specific surge sealift fleet. Despite the various studies and analysis, it wasn't until 1992 that the first significant maritime policy reform bill was introduced into Congress in the hopes of establishing a merchant fleet that would complement and support the sealift needs of DOD and meet the competition of of the international maritime industry. It was under these premises, and the failure of 60 years of ineffective legislation, that the journey of the Maritime Security Act began.

III. MARITIME SUBSIDY REFORM 1980-1992

This chapter will examine the efforts of Congress and the maritime industry to amend and improve upon the Merchant Marine Act of 1936. Beginning in 1981 with the Reagan Administration's decision to eliminate CDS and not enter into new ODS contracts and culminating with the passage of the Maritime Security Act of 1996 (MSA), the issue of maritime policy reform increased in significance and focus as the expiration of existing policies drew closer and the size of commercial fleet continued to decline.

Faced with the pressure to decrease federal spending coupled with a maritime industry that remained divided among its own participants as to the issue of maritime reform, Congress attempted to develop a financially sound plan that would meet all users' needs. Throughout the entire legislative process, maritime reform was both a bipartisan and bicameral effort that eventually overcame the obstacles of limited funding, questionable DOD support, and industry infighting, leading to the passage of the MSA at the end of the 104th Congress.

A. CONGRESSIONAL OVERSIGHT OF MERCHANT MARINE AFFAIRS

The Department of Transportation (DOT) is responsible for administering the programs and policies enacted by Congress to promote and sustain a U.S. flagged merchant marine and its associated industries. The office within DOT charged with carrying out these responsibilities is the Maritime Administration (MARAD). The annual budget of MARAD, which includes ODS and MSA funding, is submitted by DOT annually to Congress for authorization and appropriation. Appropriations for ODS payments are provided annually

to liquidate the outstanding contract authority of existing contractual obligations and by law must be provided until their expiration in 2001. MSA payments are authorized for a 10 year period, from FY1996 -2005, and must be appropriated annually. The remaining MARAD budget is authorized and appropriated annually.

Until 1995 and the election of the Republican controlled 104th Congress, the House Merchant Marine and Fisheries Committee and the Senate Committee on Commerce, Science and Transportation served as the authorizing committees for all merchant marine related legislation and oversight. Since 1981 the House Merchant Marine Committee had been the only committee assigned to monitor a single industry and had no full committee counterpart in the Senate. In 1995 the Republican leadership of the House, in an effort to bring the House Committee system more in line with the Senate, abolished the Merchant Marine Committee. Jurisdiction and oversight responsibility for all merchant marine issues including funding were transferred to the House National Security Committee and its special oversight panel on the Merchant Marine. [Ref. 14]

The House and Senate Appropriations Committees fund MARAD and its associated programs through the annual *Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act*. MARAD's funding is further broken down into two budget functions: National Defense and Transportation. All MARAD programs are funded out of the Transportation budget function while the MSA is funded from National Defense.

B. REAGAN ADMINISTRATION POLICY

The promotional policies and operating assistance provided by the Merchant Marine Act of 1936 remained largely intact for over 40 years despite the continuing complaints of industry and government reformers. Notwithstanding previous attempts to overhaul or repeal its programs, the appeal of the Merchant Marine Act was its comprehensive and balanced mechanisms to support a broad range of maritime interests.[Ref. 15] The Act had developed into a policy in which all participants of the maritime industry were greatly affected any time the government intervened to assist one particular group.

The interrelationships between the subsidized fleet, their unsubsidized counterparts, Congress, the Maritime Administration, maritime labor and domestic shipbuilders became the largest barrier towards forming an unified industry voice in support of overall reform. However, the election of President Reagan in 1980 and his ensuing policies served notice to the maritime industry that continued government assistance in its current form would not continue.

1. Budget Cuts

The continuous outlay of government funds to support the U.S. merchant marine had done little to stem the decline in the commercial fleet, as the industry suffered its biggest decline in the number of ships during the 70's (see Table I). Upon entering office in 1981, the Reagan administration, recognizing this, immediately sought to remove government subsidies from the maritime industry and adopted several actions to reduce the government's investment. [Ref. 7:p. 265]

a. Elimination of CDS

As an easy budget cutting initiative, the CDS appropriation was eliminated at the beginning in FY 1982, and all remaining obligations were outlayed by the close of 1988. Presented as a budget action, the elimination of this relatively small program within the transportation budget function was quickly perceived as a major policy decision in regard to maritime affairs. Realizing that the elimination of CDS would impact subsidized shipowners seeking to re-capitalize their existing fleets, Congress hurriedly passed legislation, coinciding with the elimination of CDS, to permit shipowners to build U.S. flag-vessels overseas without disqualifying the rest of their fleets from receiving ODS payments. This was a short term window of opportunity for shipowners, as applications for foreign construction approval expired in September of 1982. [Ref. 7:p. 278]

b. ODS Buy Out

As many of the existing 20 year ODS contracts had been signed by the previous presidential administration, ODS contracts could not as easily be terminated. In an effort to reduce the payments that would have been payed out over 20 years, the Reagan Administration introduced a "buy out" option in which shipowners would exchange their existing ODS contracts for accelerated payments over a five year period. [Ref. 7:p. 278]

2. Industry Reaction

The ODS buy out and foreign construction applications were eagerly accepted by some shipowners as opportunities to gain much needed cash and replace aging fleets. However, many in the industry viewed these new programs with uncertainty believing them

to be short sighted and not the policy overhaul most felt was needed. Additionally the elimination of CDS and the approval of shipowner applications for foreign construction created an even further division among domestic shipyards and vessel operators, thereby making the possibility of an industry-proposed maritime reform initiative less probable.

In either case, the realization that increases in subsidies would not be forthcoming, and that no new ODS contracts would be signed by a Republican administration provided the most profound effect on the formation of government policy with respect to the merchant marine since 1936. [Refs . 16 and 17] However, some shipowners believed that the rapid military buildup begun by the Reagan Administration and merchant shipping's traditional wartime mission would lead to increased direct government support. This would prove not to be the case, as the Administration remained committed to the Republican policy of free-market mechanisms. [Ref. 7:p. 265]

C. COMMISSION ON MERCHANT MARINE AND DEFENSE

Concerned about the maritime industry's shift in emphasis from militarily useful break bulk ships and small tankers to larger more efficient container ships and foreign flagged tankers, Congress ordered DOD, as part of the FY 1981 Defense Authorization Act, to complete a comprehensive analysis of sealift requirements. This act eventually resulted in DOD's publication of the Congressionally Mandated Mobility Study. As a follow up to the DOD study, the FY 1985 Defense Authorization Act established the Commission on Merchant Marine and Defense. The Commission's mandate was to

"...study the problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the United States merchant marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base of the United States to meet the needs of naval and merchant ship construction in time of war or national emergency." [Ref. 18]

Based on the results of the study, the Commission was ordered to provide recommendations for both the legislative and executive branch, and overall industry action.

Chaired by former Senator Jeremiah Denton of Alabama, the Commission conducted the most in-depth study of the maritime industry since the Black Commission in 1933. Beginning in December 1987, the Commission studied all aspects of the industry for a two year period, producing three reports of Facts and Conclusions, and a fourth and final report of policy recommendations. In addition to Commission meetings, six public hearings were held throughout the United States to collect the views of all participants in the industry.

The final report of the Commission was delivered to President Bush in January 1989, outlining a comprehensive plan for a new maritime policy that would help eliminate the "clear and growing danger to the nation's security in the deteriorating condition of America's maritime industries." [Ref. 19] The Commission estimated that full implementation of its purposed plan would add 244 merchant ships to the nation's commercial fleet, which in turn would provide for a shipbuilding and supplier mobilization base by causing 194 of those ships to be constructed in U.S. shipyards. The key elements of the commission's proposed $13 billion 10 year plan was the continuation of a deregulated ODS system, and the implementation of a Procure and Charter Program Revolving Fund for the design and

construction of modern, commercially viable yet militarily useful, dry and liquid cargo vessels constructed in U.S. shipyards.

At an estimated net investment cost of $6B, it was hoped that the program would generate more than $43 billion in Gross National Product, $6 billion in federal tax revenues, and create nearly 100,000 new jobs in the U.S. [Ref. 19] Despite the recommendations of the commission's plan, it would be three and half years before the first significant maritime reform plan would be introduced in Congress, as the Bush Administration seemed content to carry over the maritime policies of the Reagan era with regard to financial support and the refusal to enter into new ODS contracts.

In the meantime, the split between subsidized and unsubsidized carriers over ODS/Financial aid remained. Additionally, labor and shipbuilders weighed in heavily to ensure their interests would also benefit as the result of any industry policy. This non consensus only contributed further to the lack of legislative effort, as Congress and the Administration reasoned that if the carriers were unable to agree as a group on how to tackle the intricate problems of ODS reform, then there was little sense beginning the negotiating process or give into the consideration of increasing the program's budget. [Ref. 20]

The most significant problem in devising a reform plan was finding a way to extend financial aid to the carriers who currently did not draw it and eliminating the restrictive trade route system without harming smaller, less profitable carriers who rely on it for some measure of protection. Another problem stemmed from the fact that any plan that allowed foreign built ships to receive subsidies would hurt the domestic shipbuilding industry. In the end it

would take the Persian Gulf crisis and Desert Storm's many lessons learned in regard to sealift to bring maritime policy reform to the forefront of the congressional agenda.

D. INDUSTRY REFORM PROPOSAL

In an effort to renew interest in the debate concerning maritime policy reform within the Congress, the U.S.-flag liner industry introduced a draft ODS subsidy reform bill into both the House and Senate Subcommittees on Merchant Marine in the summer of 1990. The bill was introduced "by request" of the United Shipowners of America (USA) and expressed the consensus on ODS reform which the U.S.-flag liner companies agreed on.

The core of USA's proposal, known as the Merchant Marine Revitalization Act of 1990, was to establish a new form of 20 year ODS contracts for all seven existing U.S.-flag liner companies regardless of where their vessels where constructed, and to remove the assigned trade route restrictions associated with the current ODS program. At the time of the proposal only four liner companies were eligible and receiving the subsidy, as the remaining three liner companies either had fleets comprised of some portion of foreign built ships, operated foreign registered ships in addition to their U.S. ones, or simply did not want to be subjected to the ODS obligation of an assigned trade route.

The Revitalization Bill eventually died in committee, as the USA alliance disbanded by the fall of 1990 due to its unsuccessful attempt to simultaneously represent the conflicting goals of its membership comprised of subsidized, unsubsidized, domestic and international operators. Additionally, its reform initiative to loosen the U.S. built requirements for subsidies was fiercely opposed by the Shipbuilders Council of America. While the bill itself

did not offer any reduced cost to the taxpayer or added benefit to national security, it did serve its primary objective of keeping the Merchant Marine debate alive in Congress despite the lack of any formal Bush Administration plan.[Ref. 21]

E. OPERATION DESERT STORM SEALIFT PERFORMANCE

The massive deployment of U.S. armed forces to the Middle East in the latter half of 1990 resulted in the nation's largest sealift operation since the end of World War II. Concerned that the United States was not fully prepared to carry out an effective mobilization effort, the House Subcommittee on Merchant Marine conducted hearings in September 1991 to further examine the nation's merchant marine capability to serve as a naval and military auxiliary.[Ref. 22:p. 2] While the focus of the hearings was on DOD's surge sealift operation and the activation of the RRF, it was apparent that problems in many areas of DOD sealift could be attributed to steady decline of the merchant marine over the previous 40 years. Even though previous studies of sealift and maritime issues had repeatedly documented this condition, most recently in the preceding decade, Operation Desert Storm offered the first practical demonstration of DOD's sealift capability and the merchant marine's wartime role since Vietnam. It was hoped that the hearings would provide the members of the committee with valuable guidelines for future inquires and necessary remedial legislation to sustain the merchant marine.

Upon the conclusion of Desert Storm, the House Subcommittee on Merchant Marine held a second set of hearings in April, 1991 to evaluate the overall performance of sealift during the crisis and to examine future new promotional policies to improve the merchant

marine. [Ref. 23:p 1.] Despite the success of the entire mobilization effort required to end the crisis, congressional leaders remained concerned that the deficiencies brought to light concerning the commercial merchant marine's role in wartime support would further hamper sealift capabilities in the future.

The sealift requirements for Desert Storm were met by all elements of the National Security Sealift Plan. In addition to DOD's own active sealift assets, the Navy activated RRF ships and chartered U.S. and foreign vessels to move sustainment supplies. As a result of strong allied and international support and the easy availability of foreign ships on the open market, DOD did not activate the Sealift Readiness Program (SRP), a shipping agreement in which U.S. flag carriers committed half of their cargo capacity to the program during wartime in return for ODS payments and the opportunity to bid on military shipping contracts during peacetime. The SRP was never activated because of concerns that the program's participants would lose market share to foreign shipping lines once the US vessels or their cargo space was eliminated from the commercial trade routes. With the availability of many commercial ships for charter to carry sustainment cargo, DOD established the Special Middle East Sealift Agreement (SMESA), which contracted for about 30 percent of the container capacity aboard U.S. commercial liners to transport military supplies to augment sealift requirements. This plan minimized disruption to companies as it allowed commercial ships to continue their regular scheduled deliveries. [Ref. 24:p. 28]

The importance of the U.S. merchant marine and the civilian seafarers who man it and all DOD sealift assets can truly be measured by the actual amounts of cargo that were carried.

Results presented at the second Subcommittee's hearings in 1991 revealed that U.S. commercial assets had carried the majority of cargo delivered in support of Desert Storm, as shown by Table IV.

Short Tons/Percent of Desert Storm Cargo Delivered as of 15 April 1991 (Includes both Surge and Sustainment Cargo)		
Fleet	**Short Tons Delivered**	**Percent**
SMESA (US Fleet)	951,016	27.6
RRF (DOD)	707,529	20.6
Allied Charter	681,797	19.8
US Charter (US Fleet)	495,209	14.4
Fast Sealift Ships (DOD)	321, 940	9.44
Maritime Prepositioning Force (DOD)	164,328	4.8
Afloat Propositioning Force (DOD)	116, 328	3.4
Total	**3,438,147**	**100.0**

Table IV. Desert Shield/Desert Storm Delivery, [Ref. 22:p. 256]

One of the more serious lessons learned from Operation Desert Storm was the importance of the commercial merchant marine in providing crews for RRF vessels. During Operation Desert Storm there was no shortage of manpower for the RRF as the available pool of 25,000 seafarers qualified to operate deep-draft vessels easily met the need for 2,500 licensed and unlicensed crew member billets required by the activation of 78 RRF vessels. However, according to MARAD employment data, the pool of seafarers, which numbered 48,000 in 1980, is anticipated to drop to below 11,000 by the turn of the century, indicating a possible manning shortage for both commercial and DOD vessels if large scale sealift operations are ever conducted again.

A 1991 published report highlighted the potential problems resulting from a possible shortage of seafarers. The study compared deep-sea seafarer availability versus mobilization requirements to determine if a mariner shortage existed. Using the same methodology used in previous Navy analysis of merchant marine manning and that of the Commission on Merchant Marine and Defense, the requirements and availabilities specifics of mobilization were updated to reflect new RRF billet data and various assumptions about the man per billet ratio. [Ref. 23:p. 259] The MARAD-sponsored study reflected shortfalls in manning requirements by the year 2000, as shown in Table V.

Commercial Fleet and RRF Manning Requirements			
Manning Condition	1990	1995	2000
Availability (90%)[1]	21,815	15,241	9,736
Requirements (Commercial/Surge/ Sustainment)	14,484/23, 864	13,587/21,980	11,339/17,009
Shortage (Commercial/Surge/ Sustainment)	0/2,049	0/6,739	1,693/7273

[1] Assumes that only 90% of that pool of seafarers will be available in the event of national emergency, due to a number of reasons such as health, retirement, or career change.

Table V. Mobilization Availability, Requirements, and Shortages. [Ref. 23:p. 259]

The decline in manpower reflects the shrinking base of job opportunities as the number of U.S. flag ships and their average crew size continues to decrease. Additionally, the aging of the merchant seaman pool, coupled with declining interest from younger generations in pursuing maritime careers, has a severe effect on manning. The average age of U.S. merchant seamen prior to operation Desert Storm was 49, and some mariners who

were manning RRF ships during the conflict were in their 60's and 70's. [Ref. 22:p. 19]

The lessons learned from Operation Desert Storm reaffirmed the importance of some form of commercial sealift to support national defense in times of crisis and sent a strong message to Congress and the White House that some policy on maritime reform would have to be forthcoming if the nation intended to retain its commercial merchant marine. Speaking at the first Merchant Marine Subcommittee hearing in 1990, the Director for Transportation, Office of the Assistant Secretary of Defense for Production and Logistics, Robert H. Moore, summed up the many contributions of the merchant marine in preparation for Operation Desert Storm, while noting the impact of its continued decline,

> Today, we can rely on the commercial container ships to provide sustainment for Desert Shield. Our (DOD) analysis indicates that if no action is taken to stem the rapid decline in the U.S.-flag dry cargo fleet, however, it could be incapable of meeting current military sustainment requirements by the late 1990's and, except for ships operating in the domestic trades (Jones Act), could practically disappear by 2006. [Ref. 25]

F. BUSH ADMINISTRATION PROPOSAL

Following on the heals of the Persian Gulf Sealift Hearings, two significant events in the early months of 1992 forced the Bush Administration to face the question of maritime reform. First, in March 1992 the two largest U.S. flag carriers formally announced there intention to switch to foreign flags at the end of 1997 in the absence of a follow-on incentive and regulatory plan to ODS. CSX Corporation, the owners of Sea-Land Service, and American President Companies, owners of American President Lines (APL), joined forces to push the issue of whether or not the U.S. government would provide new legislation to

provide aid necessary to keep a U.S.-flag merchant marine presence. [Ref. 26]

The other significant event that marked a renewed interest in the issue of maritime policy reform was President Bush's selection of Samuel Skinner, then Secretary of Transportation, to become the White House of Chief of Staff. Skinner in turn named John Gaughn, the MARAD Administrator, to become his top assistant. Never before had there been an Administration Chief of Staff next to the President so well versed on maritime policy.

The new Secretary of Transportation, Andrew Card, appeared before the House Subcommittee on Merchant Marine in June 1992, to outline both the Bush Administration's new focus on maritime policy reform and highlights of what the new reform bill would entail. The Administration's proposal was the result of a cabinet level panel established by the White House to devise a maritime policy strategy. Shortly after Card's confirmation to Secretary, and Skinner's installation as Chief of Staff, the White House Policy Coordinating Group created the Working Group on Maritime Policy that included the heads of 17 government departments and agencies. Chaired by Secretary Card, the panel's purpose was to advise the President on what was needed to meet the requirements of national security sealift capacity while at the same time sustaining the commercial presence of the fleet. [Ref. 27]

Along with the Maritime Policy panel, a parallel effort was conducted by the National Security Council Defense Policy Coordinating Committee to further define defense related sealift requirements. The results of the NSC study were released to the Maritime Policy group for consideration in the drafting of the proposed maritime reform plan and essentially

reported that the DOD required well trained, reliable crews for both government-owned and commercial ships and depends on the U.S. commercial fleet to provide these crews for government owned ships. As a result of the working group's deliberations, Secretary Card introduced the Maritime Reform Act of 1992 (H.R.5627) before the House Subcommittee on Merchant Marine in late June 1992.

G. MARITIME REFORM ACT OF 1992 (H.R. 5627)

The Maritime Reform Act of 192 was composed of six major programs that addressed all areas of the maritime industry. The key component of the Act was the Contingency Retainer Program (CRP), designed to be the financial incentive replacement for ODS. CRP's purpose was to ensure that commercial U.S.-flag ships would be available to meet national security requirements while also maintaining a U.S. presence in international commercial shipping. While the goal of the Act was in keeping with the original mandate of the Merchant Marine Act of 1936, the method of financial assistance to be provided to shipowners was significantly changed, and many of the regulations placed on shipowners for receiving payments were eliminated.

1. CRP

CRP was proposed to authorized direct payments to U.S.-flag vessels operating in foreign trade, beginning in FY 1994. The program would cover up to 74 ships for a period of seven years, ending in the year 2000. Annual payments would not exceed $2.5 million per ship for the first two years, phasing down to $1.6 million per ship in the final year. Participating carriers would be required to keep the vessels in active commercial international

service under the American flag and make them available in times of emergency to the Secretary of Defense. Additionally, CRP permitted carriers to acquire vessels worldwide, operate without trade route restrictions, and operate foreign-flag feeder vessels in addition to their U.S. fleets. [Ref. 28]

The proposed system of contingency payments differed significantly from the ODS system in that payment would not be based on a wage differential of U.S. crews on designated trade routes. Instead, the money amount would be a blanket payment to the designated "military useful" vessel for the duration of the contract. Capping payments at $2.5 million during the first two years, and leveling off to $1.6 million by the seventh year created an incentive for both the shipowners and labor to encourage productivity enhancements that could be realized in terms of labor management negotiations and efficient, cost-conscious operations.

Additionally, because of the $2.5-$1.6 million cap on payments, CRP would provide financial aid to more ships at less of a cost than ODS. At $2.5 million for 74 ships, it would cost $185 million in its first year, and decrease thereafter throughout the remainder of the program. By comparison, MARAD paid out $217.5 million in payments under ODS, which covered only 53 ships of the total 83 ships involved in international liner trade.

DOT's extrapolation of sealift data from Desert Storm/Desert Shield provided the basis for their CRP proposal that 74 ships would be appropriate to meet defense sealift needs in times of crisis, and at the same time maintain a viable commercial presence crisis. However, support for the decision to fund 74 ships was never fully received from DOD. In

a memorandum to the Administration's policy group, Assistant Secretary of Defense for Production and Logistics, Colin McMillan, wrote that DOD would not need APL and Sea-Land ships for surge shipping and sealift requirements "even in the most demanding scenario." He went on to add that "the issue of two major U.S.-flag containership operators disposing of their U.S.-flag fleets is primarily an economic issue, rather than a national security issue, and should be treated accordingly." [Ref. 29]

a. Vessel Acquisition

In an attempt to enable carriers to build new, more efficient vessels to upgrade and modernize their fleets, the Act also proposed to modify the CCF program application requirements. Specifically, the modified CCF program would permit the use of tax-deferred CCF funds for (1) ships acquired worldwide, except for ships built in foreign yards found to be subsidized, (2) lease payments for new vessels, and (3) construction of vessels for coastwise trades and inland waterways. This was significantly different than the previous CCF program that required the funds be used for only U.S. shipyard construction of international carriers.

b. Assistance to Shipyards

Another provision of the Act was intended to increase the world wide competitiveness of U.S. shipyards, and to offset the effect of allowing CRP and CCF ships to be built in foreign yards. Financial assistance for shipowners would not be extended to vessels built in foreign yards with the aid of subsidies or equivalent measures. The administration's plan also proposed spending $5 million a year to promote productivity and

exports by U.S. shipyards, and pledged continued support of the Title XI program for ship-mortgage guarantees.

c. Preference Cargos

The Act would eliminate the three year waiting period before being eligible to carry preference cargoes for foreign built, U.S.-flag liner vessels, and for bulk type vessels built after the effective date of the legislation. It would also allow full eligibility of foreign-flag feeder vessels in conjunction with U.S. flag vessels in the carriage of preference cargoes.

d. Ownership Requirements

The Act would relax the current requirement for U.S. citizen ownership of U.S. ship owning corporations for any future vessels. This action would allow U.S. ship owning corporations meeting U.S. citizenship requirements to attract more foreign equity capital. It would also make it easier for companies to enter into joint ventures with foreign companies.

e. Repeal of Ad Valorem Tax.

Finally, the Act would reduce and then repeal the Ad Valorem Tax requirement. Up until this time U.S.-flag operators who elected to have vessel maintenance and repair work done by foreign shipyards, which might be less costly than American ones, were required to pay a 50 percent tariff on the cost of the work performed overseas.

2. REFORM ACT FAILS

Introduced late into the second session of the 102nd Congress, the Maritime Reform Act of 1992 was up against a strict time line for legislative action. Initial hearings were

convened July 23-24 before the House Subcommittee on Merchant Marine, giving little time for committee mark up, House passage and introduction into the Senate. The legislative calender was additionally shortened as Congress adjourned in early August, to convene election year political party conventions, and reconvened in September for one month with the session coming to an end in early October.

In addition to the minimal time criteria to work its way through Congress, the Act came upon several more forces that spelled its quick demise. First, the longstanding industry subdivision between shipbuilders and ship operators and between the larger and smaller U.S. flag carriers resurfaced. These divisions resulted from the fact that there was no financial aid for shipyards in the current proposal and it encouraged operators to procure foreign built ships. As for the carriers themselves, smaller carriers objected to the lifting of trade route restrictions, as the larger carriers would now be able to pull their ships into what were formally protected routes for them. Additionally, the smaller companies were operating 22 ships under ODS that would not be covered under the new system, which was applicable only to liner services. "Liner service" defines ships which operate in regular and repeated trade routes calling on designated ports in response to the quantity of cargo generated on that route. It is distinguished by the repetition of voyages and the consistent advertising of such voyages. Non-liner services or "tramp shipping" are those in which ship operations are based on cargo commitments that vary with the vessel's employment and are usually different every voyage. [Ref. 10:pp. 5-12]

CRP was designed with the concept of subsidizing the newest, largest, most efficient,

containerships and other military useful ships for the purpose of sustainment sealift, which for the most part defined ships in the liner service. Most non-liner ships were break bulk ships constructed in the early 1960's and before, required larger crews, were steam driven, and considerably slower. Although considerably more useful for carrying military equipment during initial sealift deployment than container ships, the need for these types of ships in the CRP was offset by DOD's own accumulation of state of the art Fast Sealift Ships, Maritime Prepositioning Ships, and Afloat Prepositioning Ships. Therefore non-liner operators who relied on ODS payments and cargo preference (the majority of which was agricultural and international assistance cargoes) to stay operative would be on the verge of extinction without inclusion in the new financial aid system.

To complicate matters even more, the issue of adequate funding for the CRP proposal was never formally addressed in the House Resolution. The total cost of the program for seven years was $1.1 billion. As a starting point, DOT informed Congress that it would find a way to pay for 57 of the 74 ships in the program, approximately $800 million, if DOD would relinquish $300 million to pay for the operation of approximately 17 vessels. Senator John Breaux, D-La, chairman of the Senate Subcommittee on Merchant Marine, unsuccessfully attempted to introduce the $300 million requirement into the FY1993 Defense Authorization Bill. Deputy Secretary of Defense, Donald J. Atwood, and DOD planners opposed the idea of DOD footing a portion of the bill, and counter proposed to support the measure if DOT in turn would turn over the funding and management of the Ready Reserve Fleet (RRF) to DOD. [Ref. 29] Secretary Card declined to accept that

agreement and thus the Maritime Reform Act was dead. At the time RRF funding was submitted as part of the DOT budget and directly appropriated to MARAD for the maintenance and upkeep of the fleet. Beginning in FY 1996 the RRF was submitted as part of DOD's budget, and included in the defense appropriations bill, even though the fleet is still managed by MARAD.

In the end, industry infighting and disagreements between DOT and DOD over funding, sealift responsibility (RRF), and even the need for 74 ships, proved to be the downfall of the legislation, which never made it out of committee. With the subsequent election of a new Administration that November, it appeared as if the issue of maritime reform was finished. With no legislation near completion and ODS expiration rapidly drawing clear, APL and Sea-Land made application to MARAD in the beginning of 1993 to begin reflagging portions of their fleet. MARAD did not immediately process the applications in hopes that the Clinton Administration would revisit maritime reform and the Bush Administration's proposal. To the surprise of many industry followers, the Bush proposal was reviewed by the new Administration and formed the basis for what would become the next reform proposal, the Maritime Security Act.

IV. THE MARITIME SECURITY ACT OF 1996

This chapter will examine the legislative history of the Maritime Security Act of 1996 (MSA) through the 103rd and 104th Congresses, culminating with its enactment on October 8, 1996. Using the just failed Maritime Reform Act of 1992 as a starting point for the beginning of another maritime reform initiative, the Clinton Administration, Congress, and industry embarked on the difficult process of drafting a policy that could be agreed upon by the many disparate maritime interests and enacted before the expiration of the existing ODS system. The key elements that secured the passage of the MSA were its minimal direct cost to the federal government and its appeal to DOD planners with the insurance of both sustainment sealift vessels and crews in times of crisis, as well as access to the vast intermodal transportation infrastructure of all companies represented in the Maritime Security Fleet (MSF).

A. 103rd CONGRESS (1993-94)

With the announcement by the nation's two largest carriers, Sea-Land and APL, that they would seek approval to reflag 20 of their 60 U.S. flag ships, the 103rd Congress moved quickly to introduce legislation in an effort to prevent the impending decline of the fleet. Developed on the basis of the previous administration's plan and an industry proposal, the Maritime Security and Competitiveness Act of 1993 provided a follow-on alternative to the ODS system, with less regulation and government investment than previously considered plans. This plan was then amended by the President's own reform proposal, even further

reducing the amount of funds that would be required to support ship operators, to form the Maritime Security and Trade Act of 1994. The efforts of the 103rd Congress to pass the legislation would prove unsuccessful as questions concerning the source of funding for the program caused its demise in the Senate.

1. Industry's Plan

In February, 1993 the six U.S.-flag liner companies engaged in international carriage presented their newest proposal for maritime subsidy reform to Congress. In an effort to restart the dialogue with a new administration and Congress, the industry initiative carried forward many of the regulatory relief ideas presented in the Bush Administration's plan only seven months earlier. In addition to seeking reduced operating requirements attached to a new subsidy plan, shipowners were also seeking long term commitment from the government in the form of a 15 year program with annual payments of $2.5 million, indexed for inflation, for 110 ships. The total cost of the program over 15 years would have exceeded $4 billion, about $60 million more per year than the existing ODS contracts, which amounted to $215.7 million in 1992. [Ref. 30:p. 12]

When compared to the existing ODS system which payed an average $4 million per year for 53 liner vessels, and the previous year's failed subsidy proposal which would have provided payments of $2.5 -1.6 million to 74 ships over a seven year period, the shipowner's new plan was not fiscally attractive to either the Clinton Administration or Congress. However, by attempting to seek enough money to please all six carriers, the shipowners were able to agree on the essential elements of a plan. These elements would:

- Allow foreign built ships to be eligible to receive the new subsidy.
- Remove trade route and service restrictions associated with ODS.
- Allow carriers to operate foreign-flag as well as U.S.-flag ships.
- Restrict the new subsidy to ships less than 25 years old.
- Preserve the requirement that subsidies go only to ships owned by U.S. citizens. (U.S.-flag carriers had objected to the Bush plan to loosen citizenship requirements as a way to attract investment. DOD had supported the idea as a way to bring foreign carriers such as Maersk Line- operators of several DOD chartered Military Prepositioning Ships (MPS) - under the U.S. flag).
- Prohibit subsidized companies from operating in domestic trades.
- Allow foreign built or foreign registered vessels converted to the U.S. flag to carry government preference cargo without the current three year waiting period.
- Require that subsidized ships be made available for military use during times of crisis as members of a new Maritime Security Fleet.

The three largest liner carriers -- Sea-Land, APL, and Lykes Lines -- were each facing the choice to re-flag their vessels if no action by Congress was taken in the few years remaining under ODS. The carriers' proposed plan was an amalgamation of remedies to address their various concerns. Sea-Land, the largest U.S. flagged carrier, had never operated as an ODS recipient. In addition to its 40 U.S.-flagged ships, Sea-Land also operated over 70 foreign flagged vessels world wide. Although Sea-Land did not receive ODS, it was the largest carrier of government preference cargo, essentially an indirect subsidy with fewer restrictions than ODS. The end of the Cold War had decreased the amount of cargo generated by government shipping and Sea-Land was seeking to replace its lost share of revenue with direct payments. Therefore, any plan put forward would have to allow the operation of foreign flagged vessels in conjunction with U.S. ones in order for Sea-Land to

participate. John Snow, chairman of Sea-Land's parent company, CSX Corporation, had threatened that without legislative action in 1993, Sea-Land would switch its remaining vessels to foreign flags. [Ref. 30:p. 11]

APL, the second largest U.S.-flagged carrier was the beneficiary of ODS payments. Despite the benefits of a relatively modern and efficient fleet, APL claimed that it needed a follow on financial assistance program to its ODS contracts, set to expire in 1997, in order to offset the higher costs of remaining U.S. flagged. John Lillie, chairman of American President Companies, believed that without the benefit of a new policy to replace ODS, the U.S.-flagged fleet would be in the process of "orderly liquidation" as contracts began to expire. [Ref 30:p. 11]

The largest subsidized carrier, Lykes Lines, with 23 ships covered under ODS, was in desperate need of replacing its fleet. With 12 ships nearing the end of their useful lives, Lykes required the means to procure ships worldwide, and felt that it could not afford to do so in more costly U.S. shipyards. To stay operational, Lykes would require that the new policy allow subsidy payments to foreign built ships flying the U.S. flag. [Ref. 29:p. 11]

The remaining smaller subsidized carriers, Farrell Lines, Crowley Maritime Corporation, and Matson Navigation Company, had similar needs to those of the larger carriers - mainly the need to replace existing fleets and offset higher costs associated with the U.S. registry. Additionally, Matson and Crowley, both of which operated in domestic and foreign trade, pushed for continued regulations that would prohibit subsidized ships from operating in Jones Act routes. [Ref. 30:p. 12]

The industry proposal was an attempt to meet the widespread needs of the remaining operators in international trade. Although the plan was fiscally impossible, given the restrictions placed on increases in federal discretionary spending by the Budget Enforcement Act of 1990 (BEA), it did outline the framework for the essential elements that would have to be included in any follow-on policy.

2. Maritime Security and Competitiveness Act of 1993

Following the lead of industry's initiative, the bipartisan leaders of the House Merchant Marine Committee introduced the Maritime Security and Competitiveness Act of 1993 (H.R. 2151) in May, 1993. Sponsored by Committee Chairman Gerry E. Studds, D-MA, and ranking member Jack Fields, R-TX, the bill followed the path laid out by both the Bush Administration and industry's proposal at a reduced cost.[Ref. 31] Under H.R. 2151, shipowners would sign 10 year contracts making their ships available to DOD in times of war or national emergency in exchange for annual payments of $2.3-2.1 million per ship. The payment would be made available to 90 ships and cost $1.9 billion over ten years. [Ref. 32] In addition to this bill, a second bill, H.R. 2152, was introduced to increase the tax incentives for buying or leasing ships built in U.S. shipyards. [Ref. 33:p. 2542]

Surprisingly, the House plan was introduced a week after the Clinton Administration dropped its support for such an effort. New Transportation Secretary Frederico F. Pena was preparing to present the Clinton Administration's own version of a policy, modeled after former Secretary Card's plan, when the Administration's National Economic Council (NEC) rejected any plan for continued subsidies. The NEC, an interagency group formed by Clinton

to help set domestic policy, initially rejected Pena's proposal for a 10 year plan giving shipowners a flat fee of $2.5 million per ship for the first four years, $2 million per ship for the remaining six years, and, to cut the cost of building ships in the U.S., $200 million to guarantee construction loans and ship mortgages. [Ref. 33:p. 2541]

With the continued efforts of Secretary Pena, the NEC and President Clinton shifted their position on the issue of subsidy reform, and by October 1993 Secretary Pena was formulating the Administration's new proposal. At the request of the President, H.R. 2151 was put on hold in the House as Representative Studds and Senator John Breaux, D-LA, Chairman of the Senate Commerce Subcommittee on Merchant Marine, met with President Clinton and Secretary Pena to discuss the Administration's proposal. [Ref. 34:p. 2807] Soon there after, H.R. 2151 was modified to meet the Administration's approval and reduced the total cost of the program to $1.2 billion over ten years supporting 70 vessels. The bill was approved overwhelmingly by the House (347-65) in November, 1993 and then passed on to the Senate Commerce Subcommittee on Merchant Marine for consideration. [Ref. 35:p. 3041]

However, one critical unresolved detail of H.R. 2151 was how to pay for the new subsidies. The 10 year contracts proposed in H.R. 2151 would constitute a legal obligation of the federal government and thus be considered mandatory spending subject to pay-as you go (PAYGO) rules. Established by the Budget Enforcement Act of 1990 (BEA), PAYGO procedures mandated that new legislation increasing direct spending must be budget neutral and either be offset by an equal revenue gain to the government, or reductions in other direct

spending. The lack of a funding mechanism forced Senator Breaux to delay moving H.R. 2151 forward in the Senate at the end of 1993 until a source for funding could be found. [Ref. 36].

3. Maritime Security and Trade Act of 1994

In March of 1994, with the House-approved H.R. 2151 stalled in the Senate Subcommittee on Merchant Marine, Secretary Pena with the assistance of the MARAD Administrator, VADM Albert Herberger, USN (Ret.), unveiled the details of the Clinton Administration's maritime subsidy plan. Officially named the Maritime Security Program (MSP), the Administration's proposal generally mirrored that of H.R. 2151 with the main difference being that it would offer a 10-year program to only 52 ships at a cost of $1 billion. The MSP would also require participants to enter into an Emergency Preparedness Program that would require carriers to make their ships and intermodal sealift support available to the government in times of national emergencies. The MSP provided its funding mechanism in the form of a 150 percent hike in the current vessel tonnage tax.

The vessel tonnage tax placed on commercial vessels entering U.S. ports was first established in 1790. The tonnage tax rate is based on the Net Registered Tonnage (NRT) of the ship, as well as the last foreign port the vessel called prior to entering the United States. Tonnage fees are deposited into the General Fund of the U.S. Treasury and, within the budget, serve as offsetting receipts for Coast Guard services provided to the international maritime industry. The tonnage tax applied only to the first five entries a vessel makes into the U.S. at rate of $.0.09 per NRT for vessels arriving from Western Hemisphere ports, and

$0.27 per NRT for arrivals from all other ports. [Ref. 37:p. 67] The increase in the tonnage tax would meet the PAYGO budgetary requirements of the BEA and the requirement for the MSP to be budget neutral. DOT estimated that the increase in the tonnage tax would result in an increase of $1.47 to every 20 foot container, $0.14 per ton of dry bulk goods, $0.01 per barrel of oil, and $0.38 cents per passenger brought into the United States. Clinton Administration officials felt the increase in the tonnage tax would be a small price to pay for keeping ships under the U.S. flag, and for continuing some $800 million per year spent by the Coast Guard and other agencies to provide services to all vessels calling at U.S. ports. [Ref. 38].

In August, 1994, the House approved an amended bill (294-122) merging H.R. 2151 and the Clinton Plan into the Maritime Security Act of 1994 (H.R. 4003). H.R. 4003 was a $1.35 billion plan that not only included funding for the MSF, but an additional $.35 billion for shipyard financial aid in the form of loan guarantees. The House Ways and Means Committee responded to the plan by endorsing a $1 billion dollar program, with $532 million raised from tonnage duties, $374 million from a 1-cent-per-gallon tax on diesel fuels and $105 million from a $2 tax increase on cruise tickets. However, to pay for the MSP and Shipyard subsidies, Chairman Studds proposed to replace the Ways and Means tax package with a $1.35 billion increase in tonnage duties, an amendment approved by the House in hopes that the impact on tonnage duties would be reduced in the Senate by using some portion of defense spending to pay for the program. [Ref. 39]

Upon reaching the Senate late in the second session of the 103rd Congress, H.R. 4003

was prevented from going through the Commerce Committee markup when opponents to the bill employed a rarely used parliamentary rule to prevent the Merchant Marine Subcommittee from meeting. Senator Larry Presslor, R-SD, Chairman of the Commerce Committee, invoked a Senate rule against committees' meeting while the Senate was in session and H.R. 4003 died when lawmakers recessed in the first week of October. [Ref. 40]

The proposed tonnage tax associated with the bill came under fire from Senator Presslor who argued for coal and grain companies and farm state interests that the higher duties would be ruinous to their industries where the addition of a few cents per ton would cost sales. The bill's chief supporters in the Senate, Senator Breaux and Senator Trent Lott, R-MS, cut the proposed increase from $1.35 billion to $1 billion and ensured that grain, coal, and other dry bulk cargoes would be exempt from the tonnage tax. [Ref. 41] However, even this concession was not enough to persuade Presslor and other farm state Senators to release the bill for markup. As another Congress was unsuccessful in passing new legislation to support the Merchant Marine, Sea-Land and APL awaited Secretary Pena's ruling on their pending applications to re-flag 20 ships.

B. 104th CONGRESS (1995-96)

In light of the failure of the previous Congress to move forward a new maritime policy, Sea-Land and APL were granted permission by MARAD to reflag 11 ships early in 1995. With only two years left remaining on the majority of existing ODS contracts, the 104th Congress was faced with the possibility of a mass exodus of the remaining ships if a new policy was not enacted by the end of its term. In an attempt to insure that the issue

would receive early and full attention, the House National Security Committee began drafting the Maritime Security Act of 1995 in early March, 1995. In the end, however, the 16 year debate to replace ODS would continue until the last possible moment.

1. Maritime Security Act of 1995

The 104th Congress began under the auspices of a new Republican-controlled House of Representative and the realignment of several committees within the House in order to more closely match the jurisdictional responsibilities of the committees in the Republican-controlled Senate. Under this new configuration, oversight for merchant marine affairs was given to the House National Security Committee's Special Oversight Panel on Merchant Marine. Within the first two months of the first session of the 104th Congress, this panel introduced the Maritime Security Act of 1995 (H.R. 1350), a follow-on proposal to H.R. 4003. The Act was approved by the House panel in May, 1995 and passed by the full National Security Committee one week later.

H.R. 1350's quick approval at committee level stemmed from the fact that it was virtually the same bill as H.R. 4003 with two exceptions. First, H.R. 1350 would be subject to the discretionary spending caps established by the Budget Enforcement Act of 1990 as amended in 1993. Funding would not be dependent on tonnage taxes but rather on annual appropriations for MARAD from the Commerce Appropriations Bill in the amount of $100 million over a ten year period. The bill would pay shipowners $2.3-2.1 million per vessel and cover anywhere from 35 to 50 ships. Secondly, the bill would impose more national security obligations on shipping lines than all previous proposals by requiring them to make available

to the military not only their ships but also associated transportation services, which would include terminal and handling equipment. Subsidies for shipbuilders were eliminated from this version of the bill, as an international agreement among all Organization for Economic Cooperation and Development (OECD) nations was reached at the end of 1994 to phase out government aid to all participating countries' ship yards. [Ref. 42]

In a similar action, the full Senate Commerce Committee introduced and approved its own policy version in the Maritime Reform and Security Act of 1995 (S. 1139). Sponsored by Senator Lott, the provisions for financial aid to shipowners in S.1139 mirrored those of H.R. 1350 including direct appropriations as the funding source. The change in the financing of the bill persuaded Senator Presslor and other opponents to approve the bill in committee.

a. Funding For MSF

Funding for the MSF was approved in early December of 1995 by the Appropriations Conference Committee which agreed to revise FY 1996 appropriations allocations in order to increase spending within the Commerce Appropriations Bill to pay for additional programs including the MSF. The first year cost of the MSF was estimated at $46 million as many program participants would still be covered by existing ODS contracts that had not yet expired. The House had included this amount in its version of the Commerce Appropriations Act from budget authority that had been allocated earlier in the year, but had not been used by the Energy and Water Development Spending Bill already signed into law. [Ref. 44] The Senate proposal to pay for the MSF was to eliminate $46 million from the $75 million Radio Free Europe/Radio Liberty (RFE) account within the U.S. Information

Agency. [Ref. 45]. The Conference Committee Report included full funding for RFE, with the MSF funded with unused budget authority from the Energy and Water Spending Bill. [Ref. 46] The FY 1996 Commerce Spending Bill was signed into law with the FY 1996 Omnibus Appropriations Act in April, 1997 which included four other appropriations acts. Approved at $27.8 billion, the Commerce Bill was increased by $ 1.4 billion from the FY 1995 level, and $3.2 billion below the President's FY 1996 request of $31 billion. [Ref. 47] Of the 13 FY 96 appropriation bills, the Commerce Appropriation was one of only three spending bills to receive increased allocations from Congress, the other two being Military Construction and the District of Columbia. [Ref. 44].

b. House Action, Senate Stalls

On December 5, 1996 the House Appropriations Committee agreed to the Conference Committee's Commerce Appropriations Bill, and H.R. 1350 was passed by the House on a voice vote one day later and passed to the Senate Commerce Committee for consideration. [Ref. 48]. Once in the Senate, H.R. 1350 was not acted on until late in the second session, stalled by farm belt Senators led this time by Senator Charles Grassley, R-IA, and Senate Majority Leader, Senator Robert Dole, R-KS. Notwithstanding the MSA's change in funding from tonnage taxes to direct appropriations, Senator Grassley had long opposed maritime programs that had included subsidies and cargo preference laws requiring U.S.-flag carriage of certain government-influenced agricultural cargoes.

2. Maritime Security Act of 1996 Enactment

In June, 1996 Senator Dole retired from the Senate in order to devote all his time

to his Presidential campaign. Soon thereafter, Senator Lott, Chairman of the Merchant Marine Subcommittee and sponsor of both S.1139 and H.R. 1350, was elected by the Senate as the new Majority Leader. Subsequently, management of H.R. 1350 was turned over to Senator Ted Stevens, R-AK. With strong support from Senate leadership, H.R. 1350 was presented to the full Senate on September 19, 1996. With few days left in the 104th Congress, and not wanting to send the bill back to the House where it had left almost a year earlier, Senator Stevens urged the Senate to reject any amendments that might force the bill to return to the House for reconsideration. Four proposed amendments by Senator Grassley and Senator Tom Harkin, D-IA, were tabled and the bill passed without amendment (88-10) in its entirety on September 24. It was signed by the President as Public Law 104-239, The Maritime Security Act of 1996, on October 8, 1996. [Ref. 49] In his support for the law President Clinton remarked,

> The Maritime Security Act will protect American jobs and maintain a U.S. presence in international maritime trade, ensuring that vital imports and exports are delivered in both peacetime and wartime. The Act reaffirms our Nation's resolve to maintain a strong U.S.-flag presence on the high seas for our continued national security and economic growth. [Ref. 50]

C. MARITIME SECURITY ACT POLICY ELEMENTS

A product of the Clinton Administration, Congress, and industry, the Maritime Security Act of 1996 (MSA) amended the Merchant Marine Act of 1936 to mandate the establishment of a fleet of active, militarily useful, privately owned vessels to meet national defense and other security requirements and to maintain a U.S. presence in international

commercial shipping. The MSA was authorized for a period of 10 years beginning in FY 1996 through the end of FY 2005, and reflected many of the ideas brought forward by industry during its six years of consideration and deliberation. Additionally, the MSA differed from the previous ODS system by directly associating the participants in the program with national security responsibilities in exchange for financial payments.

1. Establishment of the Maritime Security Fleet (MSF)

Section two of the MSA established the guidelines for the establishment of the Maritime Security Program, the Operating Agreements under which the vessels would be financially compensated, the National Security Requirements placed upon participants, and the authorization of funding for the program.

a. Vessel Eligibility

Eligibility for enrollment in the MSF required that vessels, whether in commercial service or on charter to the Department of Defense, must be either a roll-on/roll-off (RO-RO) vessel with a carrying capacity of at least 80,000 square feet or 500 twenty-foot containers/equivalent units (TEU's), a Lighter Aboard Ship (LASH) vessel with a barge capacity of at least 75 barges, or any other type of vessel that is determined by the Secretary of Transportation to be suitable for use by the U.S. for national defense or military purposes in time of war or national emergency. Additionally, vessels had to be less than 15 years of age, with the exception of LASH vessels which could be as old as 25 years. [Ref. 50]

b. Operating Agreements

The MSA required that participants in the program enter into an operating

agreement (contract) with the Secretary of Transportation which required that the vessel be operated in the foreign trade of the U.S. without restriction, or in mixed foreign and domestic trade as allowed by other provisions. Contractors of vessels were granted regulatory relief from the previous ODS systems as they were allowed to operate their vessels without restriction in foreign commerce.

For entering into the agreement, which would be effective for one fiscal year at a time but renewable subject to the availability of annual appropriations each subsequent fiscal year through the end of 2005, the operator for each vessel would receive an annual payment of $2.3 million for FY 1996 and $2.1 million for each fiscal year there after in which the agreement is in effect. The amount would be payed in equal monthly installments at the end of each month and the agreement would constitute a contractual obligation of the U.S. government. Additionally, current ODS vessels accepted into the program would not be eligible for payment until the expiration of their existing ODS contracts. If annual funds required by the operating agreement are not available by the 60th day of the fiscal year, then each vessel covered by the agreement is released from the contract and may transfer and register under a foreign flag. As the recent history of the FY 1996 Commerce Appropriations Act proves (it was not signed until the 197th day of the fiscal year), this provision could become significant for the future of the program. [Ref. 51]

c. *National Security Requirements*

Within the MSA, participants in the MSF were required to enter into an Emergency Preparedness Program agreement with the Secretary of Transportation. The

additional agreement required that during time of war or national emergency, or whenever determined by the Secretary of Defense to be necessary for national security, a contractor for a vessel covered by an operating agreement must make available commercial transportation resources including vessels or capacity in vessels, intermodal systems and equipment, terminal facilities, intermodal and management services, and other resources as necessary. The agreement requires compensation for resources provided for the commercial diversion period and allows operations or employment in foreign commerce of a foreign-flag vessel as a temporary replacement for an activated vessel. The basic terms of the Emergency Preparedness Agreements would be made pursuant to consultations with the Secretaries of Transportation and Defense and the MSF contractors. [Ref. 51]

2. Provisions For Preference Cargo and Future Programs

In addition to establishing the essential operating elements of the Maritime Security Program and reducing regulatory requirements for operators, the MSA included provisions to assist the agricultural interests that had opposed the idea of continued financial aid to the commercial fleet. Additionally, the originators of the MSA placed new reporting requirements on the Secretary of Transportation to ensure planning for follow on programs and legislation to assist the U.S. merchant marine. [Ref. 51]

a. Streamlining of Cargo Allocation Procedures

Section 17 of the MSA modifies allocation requirements in provisions concerning certain exports sponsored by the Department of Agriculture, and essentially

reduces by 25 percent the amount of cargo that must be transported on U.S.-flag vessels. [Ref. 51]

b. Establishment of the Maritime Policy Report

Section 14 of the MSA required that the Secretary transmit to Congress a report setting forth the Department of Transportation's policies for the 5-year period beginning October, 1995 with respect to improving the vitality and competitiveness of the U.S. merchant marine. The report was required to be submitted with the President's FY 1997 budget.[Ref. 51] The Maritime Policy Report had not been published as of November, 1997. [Ref. 52]

D. MSA IMPLEMENTATION

In October 1996 MARAD began accepting applications from shipowners for enrollment of vessels in the MSF. Twenty-one ship operators submitted applications for 97 vessels to enroll in the program. To select vessels for the 47 available slots, MARAD used specific eligibility and priority ranking criteria outlined in the MSA. First priority was given to vessels owned and operated by citizens of the U.S. and vessels less than 10 years old owned and operated by a corporation that was either eligible for U.S. citizenship or currently operating, managing, or chartering vessels for the Secretary of Defense. The latter half of this provision was to designed to enable Maersk Ltd., a U.S. subsidiary of the Dutch owned A.P. Moller/Maersk Line, to have vessels eligible for the program. At the time Maersk Ltd. operated 22 ships under the U.S. registry, many of which were on charter to DOD. The MSA limited the number of ships of first priority vessels per owner to the number that the

owner operated in U.S. foreign commerce as of May 17, 1995, plus the number the owner chartered to DOD as of that date. [Ref. 53:p. 3] Additionally, if the number of vessels that qualified for first priority status exceeded the number of slots available, the MSA required that the assigning of slots would be prorated among vessel owners based on the number of first priority vessel each owned.

From the applications submitted, MARAD determined that 53 of the 97 vessels offered for enrollment met first priority status. Because of their military usefulness, six additional vessels were granted age waivers to meet eligibility requirements, bringing the total of first priority vessels to 59. Using the prorated criteria, ten owners were selected to provide 47 ships and by the end of January, 1997, 38 ships were entered into the new operating agreement. [Refs. 53 and Ref. 54]

Nine slots were made available for APL but not immediately filled pending APL's negotiation of new labor contracts with its unions and its subsequent sale to Neptune Orient Lines (NOL) of Singapore. [Ref. 54] As a result of the sale, APL established American Ship Management, LLC. (AMS), a new U.S. based subsidiary of APL/NOL, and requested that its nine pending operating agreements be transferred to it. In October, 1997 MARAD approved the transfer of APL's nine operating agreements and existing ODS contracts to AMS [Ref. 55]. The nine MSF vessels will in turn be chartered back to APL for business purposes. Pending the completion of the NOL/APL merger, the nine AMS vessels are expected to be fully enrolled in the program by the end of 1997.

The composition of vessels and owners representing the MSF is displayed in Table VI.

At the end of FY 1997, 29 of the 47 selected ships were receiving payments in accordance with operating agreements under the guidelines of the MSA. By the end of FY 98 it is expected that 45 ships will be under operating agreements, with the last two ships remaining under ODS contract until 31 December, 1998. [Ref. 56]

MSP Contractor	No. of MSF Vessels	Vessel Type
Sea-Land Service, Inc.	15	Container
American President Lines, Ltd.	9	Container
Maersk Line, Ltd.	4	Container
Waterman Steamship Corp.	4	LASH
Central Gulf Lines, Inc	3	1 Lash, 2 Car Carriers
Crowley American Transport, Inc.	3	Combination Container/RO-RO
Farrell Lines Inc.	3	Container
Lykes Brothers Steamship Co. Inc.	3	Container
First American Bulk Carrier Corp.	2	Container
OSG Car Carriers, INC	1	Car Carrier
Total	47	

Table VI. MSF Composition. [Ref. 57]

E. ASSOCIATED LEGISLATION

In addition to the MSA, relief of regulatory requirements and authorization and appropriations of funds to support the Title XI Ship Financing were provided in separate legislative acts.

1. Coast Guard Authorization Act of 1996 (CGAA)

The 1996 CGAA, Public Law 104-239, contained several provisions reducing vessel inspection requirements in an effort to increase the competitiveness of the commercial fleet.

Section 1137 of the CGAA allows U.S.-flag vessels to be eligible for a certificate of inspection if they meet international standards prior to U.S. documentation and are classed by and designed in accordance with the American Bureau of Shipping rules, or other qualified classification societies. Prior to this provision U.S. flag vessels were required to meet both international standards and Coast Guard inspection requirements in order to receive a U.S. certificate of inspection. The extra cost borne by ship operators to prepare for two inspections was another disadvantage to the U.S. registry. The CGAA streamlined the process, eliminating redundancy in the two standards. Additionally, the CGAA amended requirements to allow foreign owned lease financing companies to finance certain vessels, and eliminated U.S.-citizenship requirements for vessel mortgagees and trustees in an effort to attract capital investment into the U.S. flagged fleet. [Ref. 3:p. 22].

2. National Defense Authorization Act of 1998 (NDAA)

One of the shipowners' original requests in the industry proposal for maritime reform was to eliminate the 3-year waiting period for a vessel to become eligible to carry preference cargoes after it has been reflagged to the U.S. registry. As several MSF vessels had been reflagged to participate in the MSP, this requirement would make them ineligible to carry preference cargo. The NDAA amended this requirement to exempt vessels covered by a MSP operating agreement from the restrictions concerning building and registry of a ship in a foreign country that were previously associated with cargo preference requirements. [Ref. 58]

3. Title XI Maritime Guaranteed Loan Funding

As a means to attract customers, both foreign and domestic, to U.S. shipyards Title XI Guarantee Loan Funding was instituted as part of President Clinton's National Shipbuilding Initiative. Previous maritime subsidy proposals had contained provisions to authorize funding to support the Maritime Guaranteed Loan Program of Title XI. Beginning with the FY 1993 Commerce Bill the funding for this program was separated from vessel subsidy programs and was appropriated within the MARAD operating budget. The FY 1996 appropriation of $40 million guaranteed up to $1B in loans. FY 1997 appropriations for this program totaled an additional $44 million, and the FY 1998 request was for $39M. [Ref. 59]

V. ANALYSIS OF THE MARITIME SECURITY ACT (MSA)

This chapter will examine the cost of maintaining the Maritime Security Fleet, its associated usefulness to DOD sealift planners, and its current effect on the U.S.-flagged merchant marine. It will analyze the final cost of the MSA and discuss its associated indirect costs to the federal government. Then the MSA's benefit to strategic sealift will be discussed. Finally, the chapter will address the impact of the MSA on the U.S. merchant marine.

A. FISCAL IMPLICATIONS

With the enactment of the MSA, operating payments were authorized to be payed annually to ship operators over a 10 year period-- FY 1996 to FY 2005 -- for vessels enrolled in the Maritime Security Program (MSP). Total payments were authorized up to $100 million annually with a final program cost of $1 billion. The estimated final cost of the MSP is $825.35 million, considerably less than the authorized amount. The difference between the authorized program cost and estimated program cost is explained by the late passage of the MSA in 1996, existing ODS contracts for eight vessels of the MSF in effect until January 1998, and the pending sale of APL. [Ref. 56]

1. Maritime Security Program: Program and Financing

First year funding for the MSP was provided in the FY 1996 Commerce Appropriations Act in April 1997, seven months prior to the authorization of the MSA in October, 1997. As a result, the entire FY 1996 appropriation remained unobligated and was available for obligation in FY 1997. Additionally, the MSA provided for payments of

$2.3 million in FY 1996, and $2.1 million for the remaining nine years. Because the MSA did not come into effect until FY 1997, the payment of $2.3 million was never awarded, and ships with operating agreements were paid at the rate of $2.1 million beginning with the first agreements approved in January, 1997.

While the FY 1996 appropriation remained unobligated, the FY 1997 Commerce Appropriation provided another $54 million to the program, bringing the total budgetary resources available for obligation in FY 1997 to $100 million. Beginning in 1997, 29 ships received payments under the new operating agreements, incurring a government obligation of $49 million. Of the remaining 18 ships accepted into the program, nine were covered by ODS contracts until the end of 1997, one additional ship had not yet been re-flagged to enter the program, and APL was in the process of bringing the remaining nine ships into the program-- reflagging its six newest and largest ships from the Marshall Islands to the United States.

By the end of FY 1998, 45 of the 47 vessels selected will have received payments in accordance with the operating agreements. The remaining two vessels will come into the program upon the expiration of their ODS contracts in January, 1998. The FY 1998 appropriation of $35.5 million and the remaining account balance of $51 million will be outlayed in FY 1998, meeting new obligations of $86.5 million. FY 1999 will mark the first year all 47 ships will receive payment of $2.1 million each for the entire year. An annual appropriation of $96.75 million will be required in FY 1999 and throughout out the remaining six years of the authorization to pay all participants. The MSA's program and financing is

detailed in Table VII.

2. Impact of Inflation on the MSP

The authorization of payments to MSF participants does not make provisions for inflation or increases in ship operating costs. The payment of $2.1 million is a flat flee throughout the life of the program and constitutes a real savings of at least $95.1 million during the program's 10 year authorization.

MSA PROGRAM AND FINANCING (in millions of dollars)					
Budgetary Resources Available for Obligation	1996	1997	1998	1999-2001 (Annual-estimated)	2002-2005 (Annual-estimated)
Unobligated balance available, start of year: Fund Balance	0	46	51	0	0
New Budget Authority (gross)	46	54	35.5	94.5	98.7
Total Budgetary resources available for obligation	46	100	86.5	94.5	98.7
New Obligations	0	49	86.5	94.5	98.7
Unobligated Balance Available, end of year: Fund Balance	46	51	0	0	0

Table VII. MSA Financing. [Ref. 59:p. 823]

In response to Congressional inquires concerning the selection process for the MSF, the Government Accounting Office (GAO) studied the impact of introducing a competitive bidding process to determine the participants for the MSF. Representatives from the various ship owning companies participating in the study indicated that if a competitive selection

process was introduced that they would increase their annual bid proposals to account for inflationary adjustments. Using the annual inflation forecast of two major economic forecasting firms, Table VIII depicts the impact of inflation on the annual payment of $2.1 million per vessel and the savings from the flat fee payment. [Ref.53:p. 6]

Impact of Inflation on Annual MSF Payment (dollars in millions)									
Fiscal Year	1997	1998	1999	2000	2001	2002	2003	2004	2005
Adjusted Payment	2.10	2.15	2.2	2.26	2.32	2.38	2.44	2.52	2.59
Annual Savings	-	2.3	4.7	7.38	10.51	13.02	16.17	19.51	23.03
Cumulative Savings from 1997	-	2.3	6.0	13.38	23.89	36.91	53.08	72.09	95.12

Table VIII. Impact of Inflation on the MSF Annual Payment. [Ref. 53: p. 6]

a. Phase Out of ODS Contracts

At the end of FY 1997, the remaining contract authority in the ODS program was $255 million and unpaid obligations were $291 million. Annual appropriations will continue to be provided to the ODS program in order to liquidate remaining contract authority, and the final contract will expire on October 18, 2001. Total vessel subsidy cost for the period 1997-2005, including both ODS and MSA, is estimated to be $1.12 billion. [Ref. 59:p. 823]

b. Impact of Annual Appropriation Process

While the MSP was appropriated at requested levels for FY 1996-1998, full funding of the program will continue to be subject to the annual appropriations process. While support for the program remains strong in Congress, as evidenced by the approval of

appropriations to meet all requested funds during the first three years of the program, the future of the program will be subject to the continued support of Congressional appropriators and the ability of Congress and the President to approve the annual Commerce Appropriation within the required time line as outlined in the MSA. Despite the MSP's requirement for annual funding approval and the negative effects of a flat fee payment, the shipowner's rush to nominate 97 ships for the 47 ship program indicates that the nominal payment of $2.1 million, coupled with the opportunity to carry preference cargo, is in fact an attractive incentive to remain under the U.S. flag.

3. Associated Cost: Cargo Preference

In addition to the direct payment of the MSP subsidy, cargo preference laws provide shipowners with an indirect form of subsidy. Cargo preference legislation requires that certain government influenced cargo be carried on U.S. flag ships. Table IX displays the recent annual cost to support cargo preference shipments by the federal government. While cargo preference laws mandate that applicable government cargo be carried by U.S. ships at rates "made for transporting like goods for private persons," these rates are those of U.S.-flagged ships with inherently higher operating costs as opposed to the lowest available shipping rate on the market. The elimination of cargo preference laws would reduce the federal government's shipping costs; however, government outlays to foreign vessels for the carriage of cargo would further alter the nation's balance of payments and trade deficit. In addition to MSP payments, cargo preference laws are significantly vital to maintaining the U.S.-flag fleet. MSP payments alone do not provide the necessary financial incentive for

ship operators to keep their vessels under the U.S.-flag. [Ref. 17]

CARGO PREFERENCE PROGRAM COSTS (in millions of dollars)				
AGENCY:	1995 Obligation/***Outlay***	1996 Obligation/***Outlay***	1997 Obligation/***Outlay***	1998 Obligation/***Outlay***
Department of Defense	438/***438***	412/***412***	398/***398***	419/***419***
Department of Agriculture	62/***49***	50/***38***	36/***70***	33/***35***
Department of Transportation (MARAD)	63/***63***	14/***14***	25/***25***	28/***28***
Export-Import Bank of the U.S.	40/***40***	24/***2***	32/***2***	31/***2***
Agency for International Development	4/***4***	8/***8***	9/***9***	10/***10***
Department of State	1/***1***	1/***1***	1/***1***	1/***1***
Total	608/***595***	509/***475***	501/***505***	522/***495***

Table IX. Cargo Preference Program Cost. [Ref. 59:p. 825]

B. NATIONAL SECURITY IMPLICATIONS

The vessels comprising the MSF provide a significant sustainment sealift capability to DOD planners and currently fill a shortfall in DOD's requirement for 10 million square feet of sealift capacity.

1. MSF Capabilities

The MSF is made up of 21 large containerships (carrying capacity greater than 3000 twenty-foot equivalency units (TEU's)), 15 medium containerships (carrying capacity less than 3000 TEU's), five LASH vessels, three combination Container and RO/RO ships, and

3 Car/Truck carriers. Their combined capacities include the capability to carry 128,661 TEU's, and 1,360,268 total square feet of RO/RO capacity. The containerships represent the U.S.-flagged fleet's newest ships and provide a proven source of sustainment capability. RO/RO vessels and the motor vehicle carriers, in addition to meeting sustainment requirements, also fill the gaps in surge capability shortfalls. Along with the ships, the MSF provides a pool of well trained mariners to augment DOD surge sealift manning requirements. The MSP also provides DOD with access to the participating companies' shore side intermodal transportation systems, cargo handling systems, and cargo tracking systems as part of the Voluntary Intermodal Sealift Agreement (VISA) included in the program.

2. DOD Sealift Requirements

At the beginning of 1997, DOD's surge sealift fleet included 95 ships with more than 7 million square feet of carrying capacity. DOD is currently in the process of procuring 19 Large, Medium-Speed RO/RO's (LMSR's) to meet its need for 10 million square feet of sealift capacity. Congress appropriated funding for 16 LMSR's at an average cost of $314 million, and the first two vessels were delivered in the fall of 1996. [Ref. 24: p. 29] The last vessel is expected to be delivered by the end of 2001. The MSF's RO\RO's, at a cost of $2.1 million per year, per vessel, currently provide a much sought after capability to meet the shortfall in surge sealift capability.

DOD's sealift requirements are based on the requirement to deploy cargo to major regional contingencies through a combination of pre-positioned ships, fast sealift ships, and activation of necessary RRF ships. As the characteristics of military and commercially useful

cargo ships have diverged over the past several decades DOD has sought to increase the size of its own cargo fleet constructed with features to accommodate large numbers of wheeled and tracked Army and Marine Corps vehicles. The type of vessel best suited to carry this type of cargo is the RO\RO vessel, not commonly employed in commercial trade. Between 1996 and 1999 the Department of the Navy will spend approximately $4.331 billion on the National Defense Sealift Fund (NDSF) to procure the remaining LSMR's and maintain the RRF. [Ref. 60:p. A-18] This amount is in addition to the $8.99 billion invested in strategic sealift between 1981 and 1994. [Ref. 61:pp. 93-99].

The MSP is not designed to replace any portion of the NDSF or RRF requirement; rather it's role is to compliment DOD sealift assets as a the primary source for sustainment sealift and for additional surge capability. Its primary value to DOD planners is its employment of skilled manpower that will be called upon in the event of an emergency to man the 95 vessels of the RRF. As commercial ships are employed throughout the world, the very nature of their work makes them ill suited for rapid deployment on a moment's notice. Thus the requirement for DOD to have modern and capable pre-positioned and RRF ships able to deploy within four days notice will not diminish.

3. Leverage of the Commercial Fleet

In an attempt to reduce the cost of procuring militarily useful (RO/RO) vessels, DOD has petitioned Congress in the past for permission to buy and re-flag foreign built vessels in order to replace older vessels and increase surge capacity in the RRF. Congress has approved the purchase of five foreign vessels to be reconstructed as part of the LMSR program.

However, any decision to purchase more foreign vessels for the federal government further diminishes the national shipbuilding base.

One alternative for increasing capacity for sealift, and at the same time provide additional work for shipyards while leveraging the existing merchant marine, is the establishment of the National Defense Features Program. The program would build, install, and maintain militarily useful features on commercial ships, making them more efficient in carrying military unique materials. The relatively low cost of the program when compared to buying ships for the sole purpose of carrying war time specific materials is a fiscally attractive option to Congressional leaders who are continually seeking new means to stretch the utility of shrinking discretionary spending. Additionally, the savings achieved by DOD in this area could be applied to other procurement, specifically Ship Construction Navy (SCN) and the purchase of 21st century combatants.

Investment in the National Defense Features program was authorized by the 1996 National Defense Authorization Act and the first contract under this program was awarded in September, 1997 by the Navy's Military Sealift Command to Hvide Van Ommerman Tankers. The $4.9 million contract covers the installation and 25 years of maintenance of four refueling-at-sea stations on each of three commercial tankers currently under construction. [Ref. 62] Despite these early successes of program authorization and the awarding of the first contract, investigation into the National Defense Features program continues, as the development of features that will provide the most benefit to the military, and at the same time leave ships commercially useful, is a trade off in capabilities that shipping

companies and DOD must agree on.

C. MSA EFFECT ON INDUSTRY

Prior to the passage of the MSA, 118 U.S.-flag ships were engaged in foreign commercial trade, with 77 of them under ODS contracts at the end of 1995. Because the MSA provides payments to only 47 vessels, and government preference cargo will continue to decline, it is expected that the U.S.-flag fleet will continue to a shrink point where government cargo can support the remaining unsubsidized fleet. Additionally the effects of international mergers and consolidation will play a role in the make up of the U.S. fleet.

In February, 1997 Canadian Pacific (CP) Ships of Canada purchased the now bankrupt Lykes Brothers Steamship Company for $34 million. CP Ships had intended to run Lykes as a separate operating company alongside the company's two other Canadian shipping companies, and charter the ships back to Lykes, now a subsidiary of one its creditors, effectively keeping the ships U.S. owned and operated. [Ref. 63] In August, 1997 the MARAD Administrator, VADM Herberger, ruled against Lykes' petition to transfer its MSP ships to CP as part of the sale. Even though the ships would have been operated by the U.S. subsidiary, it was felt that the structure of the CP/Lykes agreement placed too much foreign influence on the operations of the U.S. subsidiary employing three MSF vessels. The Secretary of Transportation later upheld this decision, forcing Lykes to seek an owner for their three MSF ships prior to their ODS contracts expiring in January, 1997.

In April, 1997 Singapore's Neptune Orient Lines (NOL) announced its intention to buy the second largest U.S.-flagged carrier, APL, for $825 million. The acquisition of APL,

expected to be completed by the end of 1997, will create one of the five largest container-shipping companies in the world. NOL/APL will have a combined total of 113 vessels, including 76 containerships with a total capacity of 200, 000 TEU's. As previously mentioned APL's nine ships in the MSF were transferred to a U.S. subsidiary, American Ship Management. [Ref. 64]

The sale of APL and Lykes, the second and third largest U.S. flag operators respectively, to non-U.S. entities reflects the trend in the world's maritime trades towards the ownership and operation of ships by multinational companies. Furthermore, individual carriers have been aligning themselves in carrier alliances on major trade routes. A direct result of such agreements is the ability of carriers to share vessel assets and cargo capacity with foreign companies on designated trade routes, resulting in improvements in capacity management, increased utilization and higher freight rates.

All these events have further added to the debate over the need for a U.S.-flag merchant marine, and the concept of expanding the U.S. merchant marine to include the Effective U.S Controlled (EUSC) Fleet. EUSC vessels are owned and operated by U.S. companies but registered in foreign countries where there is an agreement between the registry nation and the U.S. that those vessels my be recalled by the President in times of emergency to meet national sealift requirements. EUSC ship are owned by U.S. companies that do represent the U.S. collective interest in international trade and in seeking cost effective and efficient marine transportation between trading nations in an effort to attract customers and remain profitable. Additionally, the success of these companies contributes to the

nation's Gross Domestic Product and their income provides revenue to the U.S. in the form of taxes. Furthermore, in the absence of a U.S.-merchant marine, the U.S. and DOD may not be ready to make the commitment to rely solely on foreign carriers, whether allied or friendly nations, for all its commercial and a portion of its defense sealift requirements.

As the largest trading nation in the world, the issue of maintaining a U.S. registered merchant marine in foreign trade is an economic one. It must consider the costs and benefits of maintaining a nationally owned industry in a current business environment dominated by transnational corporations benefitting from the advantages of flag of convenience registries. At the same time, the issue of maintaining a merchant marine to support strategic sealift is a national security one that must consider the costs and benefits of having a commercial maritime capability to meet specific defense needs. The combination of fiscal and regulatory policy required to maintain a merchant marine capable of meeting both missions has been sought by government and industry leaders since the end of World War I. Today's continually evolving maritime industry makes the government's effort to forge a single overarching maritime policy that much more difficult.

VI. SUMMARY AND CONCLUSIONS

This chapter summarizes the fiscal and national security concerns that influenced the evolution of the Maritime Security Act of 1996 and the decision of policy makers to continue payment of subsidies to U.S. ship operators. It then presents ideas currently being discussed for follow-on policies and provides suggestions for further study.

A. FACTORS INFLUENCING MARITIME POLICY

During the 20th century, the U.S. merchant marine has played an essential role in both the development of the U.S. as the leading trading nation in the world, and in sustaining our armed forces during times of conflict. Since the end of World War I, the federal government has taken an active role in developing public policy to ensure that a U.S. merchant marine would exist to serve the nation's interests in both commerce and war. The most influential policy in ensuring both those requirements could be met by a citizen owned industry has been the Merchant Marine Act of 1936. Developed from the painful lessons learned in World War I, when the U.S. found itself without a sufficient sealift capability, and the failure of maritime policy in the 1920's, the Merchant Marine Act introduced a system of highly regulated incentive payments to shipowners as a means of offsetting the higher cost of operating ships with U.S. citizens. Amazingly, that system, the Operating Differential Subsidy, remained in effect for well over 60 years as the key element of the nation's policy to maintain a merchant marine. Despite the outlay of over $10 billion since 1936, the percentage of U.S. trade carried by the U.S. merchant marine has fallen from 24 percent in

1955 to just over 3 percent in 1997.

1. Republican Policy: 1980-1992

In 1981, President Reagan, realizing the failure of this system to increase the merchant marine's competitiveness and faced with the requirement to reduce government spending, announced that his administration would not enter into new ODS contracts. Additionally, the Reagan administration eliminated the shipyard's equivalent to the ODS system, the Construction Differential Subsidy (CDS), further adding to the decline of the nation's maritime industry. Meanwhile DOD and Special Commission studies concluded that the decline of the merchant marine over the past several decades would have a dramatic impact on strategic sealift were the nation to experience an extended conflict overseas. The withdrawal of many troops from abroad made the reliance on strategic sealift that much more important. In response to these concerns, Congress and DOD began an extensive buildup of government owned sealift assets and the modernization of the Ready Reserve Force.

The election of George Bush as President in 1988 did little to change the nation's policy towards its merchant marine. Despite the recommendations of the Special Commission on Merchant Marine and Defense to continue a modified system of less regulated ODS payments, the Bush administration also decided not to enter into new ODS contracts. The maritime industry was deeply divided among its members on the issue of maritime reform. Differences of opinion between subsidized and unsubsidized vessel operators, domestic and international trade route carriers, shipowners and shipyards, and labor and management, made it impossible for one policy to meet the needs of all interests. As long as industry

could not come to a consensus the Bush administration was prepared to let the issue of policy reform wait. However, the impact of Operation Desert Storm forced the issue of reform to the forefront of the congressional agenda as the importance of a commercial maritime capability was highlighted by the deployment of troops and supplies halfway around the world in preparation for war.

In response to lessons learned from Desert Storm and pressure from both industry and Congress, the Bush Administration introduced the Maritime Reform Act of 1992 in the 102nd Congress. The Bush proposal provided benefits to all areas of the maritime industry and introduced the concept of a Contingency Retainer Program for militarily useful commercial ships as the follow-on subsidy system to ODS. Introduced late into the session of Congress and combined with the fact that DOD and DOT could not agree on certain aspects of the bill, the proposal never made it as far as the House or Senate floors for debate.

2. 103rd and 104th Congress

Following the failure of the 1992 Reform Act to make any progress in Congress, the two largest U.S.-flagged carriers, Sea-Land and APL, announced their intention to seek foreign registries for their ships if a new policy could not be agreed upon. Building upon a combination of the Bush proposal and an industry "wish" list, a new reform proposal was introduced by members of the House and later combined with President Clinton's own proposal to form the Maritime Security and Trade Act of 1994. This act was the first proposal introduced to be funded with new revenues to the government -- increased tonnage taxes. Much like previous bills, this plan also assisted shipyards with subsidies and new

guaranteed loans. The bill was passed by the House but died in the Senate when concerns about the tonnage tax and its effects on other domestic industries prompted farm state Senators to hold it in committee until Congress had adjourned.

With less than three years remaining on the majority of existing ODS contracts, the 104th Congress moved quickly to introduce a plan that would successfully meet fiscal constraints, enhance defense sealift capabilities and increase the commercial competitiveness of the industry. Benefitting from the worldwide movement of OECD nations to eliminate government subsidies from shipyards, the Maritime Security Act of 1995 was the first proposal introduced with no ties to shipyard financial aid. Additionally, the 1995 bill replaced the financing mechanism of previous attempts with a proposal for an annual appropriation of $100 million authorized over a ten year period. The bill was eventually passed in the final days of Congress as the Maritime Security Act of 1996, and established a 47 ship Maritime Security Fleet (MSF) to be provided with annual payments of $2.1 million.

B. IMPACT

In the end, the MSA was a policy that met the "lowest common denominator" of all parties affected by a U.S. merchant marine and its associated costs and benefits. As a new discretionary program the MSA was subject to the fiscal constraints of the spending caps imposed by the BEA of 1990. Additionally, as depicted in Appendix C, the program was gradually scaled down over time to incur the least cost to the federal government while gaining the services of the commercial fleet's newest and most militarily useful ships. In addition to the ships, DOD received the insurance of access to the vast transportation

infrastructures of the companies involved in the Maritime Security Program, and an employment base of several thousand skilled and actively employed mariners.

Despite the many threats of industry to re-flag vessels over the past six years, there was no shortage of ships seeking acceptance into the MSF. With payments authorized for only 47 ships, as compared to 77 ships under the previous ODS system, it can be expected that the commercial fleet will gradually decline over the next few years as the final ODS contracts expire. Ironically, the company with the most ships represented in the new subsidy program, Sea-Land, has never been the recipient of direct subsidies. During the MSA's consideration and subsequent enactment, Lykes Lines, the third largest U.S. carrier, filed for bankruptcy, and APL, the second largest carrier, was purchased by a liner company from Singapore.

Six years in the making, the MSA was hurriedly passed at the end of the 104th Congress under the assumption that failure to do so would result in large scale re-flaggings. As evidenced by the history of the MSA and the Merchant Marine Act, any policy associated with the maritime industry has wide ramifications and will require long and deliberate considerations. The MSA was not the overhaul of policy that many in industry had hoped for, and based on its scope and time limit, it appears to be a short term policy that has temporarily halted the decline of a beleaguered industry. The follow-on policy to MSA, if there is to be one, will likely come under even more scrutiny as Congress continues to reduce discretionary spending in an effort to balance the budget.

As international competition continues to shape the world's maritime industry into

a business dominated by transnational corporations, mergers and alliances will continue to erode the concept of a national merchant marine. This trend towards multinational ownership has influenced the debate on the need to maintain a national commercial fleet. The nation's requirement for a national fleet governed by strict U.S. regulations and high taxes is not conducive to the success of U.S. commercial ships in the international market without some form of financial incentive for shipowners. It has been difficult for the U.S. government to achieve and sustain a maritime policy for the commercial fleet which meets the differing requirements for commerce and national security.

C. SUGGESTIONS FOR FURTHER STUDY OF FOLLOW-ON POLICIES

In order to assist companies operating U.S.-flagged ships to compete in international trade many experts in the industry have recommended that the federal government adopt regulations that mirror those of competing nations. These ideas include the adoption of an Open Registry concept, where only a certain portion of crews would have to be U.S. citizens, and ships would be required to meet only international standards. Several European nations have adopted similar policies in an attempt to return previously flagged ships now under flag of convenience registries back to their original countries. Examination of the effects of such a policy would prove beneficial in the development of our nation's follow-on attempt to the MSA.

Other ideas include amendment of the federal tax code to accelerate depreciation schedules of U.S. ships, exempt wages of U.S. seamen from federal income tax, and provide tax deductible business expenses to companies that ship cargo on U.S. flag ships.

Additionally, making capital venture investments in U.S. flag companies tax exempt might make investing in the U.S. merchant marine more attractive and draw more shippers into the industry. Opposition to these ideas will easily be raised, as questions are asked concerning the propriety of giving one industry preferential treatment. However, it is at least worth considering the benefits and costs of enacting legislation that would further reduce the cost of operating under the U.S.-flag, bringing it more in line with international competition.

While the issue of finding the cure for the ailing shipping industry as a whole is quite complex, the problem of maintaining a reserve force of trained and skilled mariners to man sealift ships has been under serious debate for some time and requires further investigation. For the last several years MARAD and DOD have been studying the concept of a Merchant Marine Reserve to ensure available manpower to man RRF ships. Would the cost of such a program be less than subsidizing entire companies to remain U.S.-flagged? Mariners in the program could possibly keep their training current through periods of sailing in activated RRF ships, or employment under certain foreign flag registries if tax benefits were extended to their reduced salaries. Additionally, if government owned assets were permitted to carry cargo normally reserved for cargo preference carriers, would the cost of actively operating more RRF ships and the new jobs associated with them be less than the combined costs of subsidies, cargo preference, and maintenance of an inactive RRF? This concept might also improve readiness as ships would not be placed in a reduced operating status. This would essentially be the federalization of the merchant marine, as recommend by the Black Commission in 1936.

In the end, due to the disadvantages of competing in an international industry as the nation with the highest standards of performance and living enjoyed by its citizens, the decision to maintain a commercial merchant marine for either economic and/or security reasons will require a continued investment of federal resources to offset the lower costs of foreign competition. The size of our merchant marine will depend on how much we are willing to spend, either in the form of direct payments or reduced regulations. The issues affecting the merchant marine are ones that should be understood by DOD and DON planners as the health of the nation's commercial merchant marine impacts national security and mobility readiness.

APPENDIX A. MAJOR MERCHANT FLEETS OF THE WORLD-- SEPT 30, 1996

COUNTRY	Deadweight Tons Tonnage in Thousands	Rank by Deadweight	No. of Ships[1]	Rank by No. of Ships
Panama	119,150	1	3,948	1
Liberia	97,405	2	1,595	3
Greece	48,486	3	879	8
Cyprus	39,841	4	1,474	5
Bahamas	37,654	5	963	7
Malta	31,628	6	1,114	6
Norway	29,115	7	621	12
China	23,411	8	1,512	4
Singapore	23,409	9	742	9
Japan	21, 554	10	741	10
United States[2]	18, 021	11	498	15
Hong Kong	13,828	12	223	29
Philippines	13,256	13	530	13
India	11,420	14	306	24
All Other	189,297		11,618	
Total	**717,617**		**26,764**	

[1] Oceangoing merchant ships of 1,000 gross tons and over.
[2] Includes 193 United States Government-owned ships of 3,567,000 dwt.
[Ref. 3:p. 45]

APPENDIX B. MARITIME SUBSIDY OUTLAYS--1937-1997

Fiscal Year	CDS	Reconstruction CDS	Total CDS	Total ODS	TotalODS/CDS
1936-1955	$248,320,942	$3,286,888	$251,607,830	$341,109,987	$592,717,817
1956-1960	129,806,005	34,881,409	164,687,414	644,115,146	808,802,560
1961	100,145,654	1,215,432	101,361,086	150,142,575	251,503,661
1962	134,552,647	4,160,591	138,713,238	181,918,756	320,631,994
1963	89,235,895	4,181,314	93,417,209	220,676,685	314,093,894
1964	76,608,323	1,665,087	78,273,410	203,036,844	281,310,254
1965	86,096,872	38,138	86,135,010	213,334,409	299,469,419
1966	69,446,510	2,571,566	72,018,076	186,628,357	258,646,433
1967	80,155,452	932,114	81,087,566	175,631,860	256,719,426
1968	95,989,586	96,707	96,086,293	200,129,670	296,215,963
1969	93,952,849	57,329	94,010,178	194,702,569	288,712,747
1970	73,528,904	21,723,343	95,252,247	205,731,711	300,983,958
1971	107,637,353	27,450,968	135,088,321	268,021,097	403,109,418
1972	111,950,403	29,748,076	141,698,479	235,666,830	377,365,309
1973	168,183,397	17,384,604	185,568,001	226,710,926	412,278,927
1974	185,060,501	13,844,951	198,905,452	257,919,080	456,824,532
1975	237,895,092	1,900,571	239,795,663	243,152,340	482,948,003
1976	233,826,424	9,886,024	243,712,448	386,433,994	630,146,442
1977	203,479,571	15,052,072	218,531,643	343,875,521	562,407,164
1978	148,690,842	7,318,705	156,009,547	303,193,575	459,203,122
1979	198,518,437	2,258,492	200,776,929	300,521,683	501,298,612
1980	262,727,122	23,527,444	286,254,566	341,368,236	627,622,802
1981	196,446,214	11,666,978	208,113,192	334,853,670	542,966,862
1982	140,774,519	43,710,698	184,485,217	400,689,713	585,174,930
1983	76,991,138	7,519,881	84,511,019	368,194,331	452,705,350
1984	13,694,523	0	13,694,523	384,259,674	397,954,197
1985	4,692,013	0	4,692,013	351,730,642	356,422,655
1986	(416,673)	0	(416,673)	287,760,640	287,343,967
1987	420,700	0	420,700	227,426,103	227,846,803
1988	1,236,379	0	1,236,379	230,188,400	231,424,779
1989	0	0	0	212,294,812	212,294,812
1990	0	0	0	230,971,797	230,971,797
1991	0	0	0	217,574,038	217,574,038
1992	0	0	0	215,650,854	215,650,854
1993	0	0	0	215,506,822	215,506,822
1994	0	0	0	212,972,929	212,972,929
1995	0	0	0	199,966,581	199,966,581
1996	0	0	0	164,687,965	164,687,965
1997[1]	0	0	0	155,000,000	155,000,000
Total	**$3,569,648,434**	**$264,904,682**	**3,834,553,116**	**10,233,750,822**	**14,089,477,798**

[1]1997 ODS Total is based on OM B estimate. [Ref. 3:p. 80]

APPENDIX C. SUMMARY OF OPERATING SUBSIDY POLICIES AND PROPOSALS

Policy Title	Year Enacted/ *Proposed*	No. of Ships Covered	Avg. Payment Per Ship ($) million	Time Period Covered	Total Program Cost ($)	Status
Operating Differential Subsidy Program (ODS)	*1936*	Varied. 1994: 77(53 liner, 24 Bulk)	3-4	20 Year renewable contracts.	10.5 Billion (1936-1997)	Last contracts signed in 1981. MSA ends ODS program. Remaining 31 contracts valid until termination date, last contract expires 12/31/2001.
Maritime Reform Act of 1992 (H.R. 5627)	*July 1992*	74	2.5-1.6	7 year program	1.1 billion	Proposal for DOT to fund $800M and DOD $300M kills bill in House Merchant Marine Comm.
U.S. -Flag Liner Industry Proposal	*March 1993*	110	2.5, indexed for inflation	15 year contracts	4.0 billion	Forms basis of proposal for 103rd Congress.
Maritime Security and Competitiveness Act of 1993 (H.R. 2151)	*May 1993*	90	2.3-2.1	10 year contracts	1.9 billion	Amended with Clinton Administration Plan to Form H.R. 4003 -Maritime Security Act of 1994
Maritime Security and Trade Act of 1994 (H.R. 4003)	*March 1994*	52	2.3-2.1	10 year contract. One Appropriation to be obligated over 10 yrs.	1.0 billion	Proposal to fund bill with tonnage tax kills bill in Senate Commerce Committee.
Maritime Security Act of 1995 (H.R. 1350)	*May 1995*	35-50	2.3-2.1	10 year authorization, subject to annual appropriations.	1.0 billion	Approved by House Dec. '95, Held in Senate Commerce Comm. until end of 104th Congress 1st Sess.
Maritime Security Act of 1996 (P.L. 104-239)	October 8, 1997	47	2.3-2.1	10 year authorization (1996-2005), 1 year renewable contracts, subject to annual appropriations.	1.0 billion	Approved by Senate Sep.24, '96. Signed as P.L. 102-239 Oct 8. 1997. Funded with annual appropriations.

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